

CITY COUNCIL STAFF REPORT MEETING DATE: DECEMBER 17, 2003

Agenda Item #1
Prepared and Submitted By:
City Manager

SERVICE LEVEL STANDARDS

RECOMMENDED ACTION(S): Conduct a workshop and provide direction on the mix and level of services for inclusion in the Five Year Financial Plan.

EXECUTIVE SUMMARY: At the annual goal setting retreat at the beginning of the year, the Council asked for a workshop to review current service level standards. During times of expanding budgets, policies about service levels can assist in allocating resources to new priorities. In times of contracting resources, service level standards can be used to establish priorities for reducing service levels, identifying opportunities for alternative service delivery models, or for reorganizing to focus on the most critical services

According to "The Elected Officials Handbook" volume on "Setting Policies for Service 'Delivery'":

"Deciding that a service should be available and arranging for its delivery are an integral part of any local government's policymaking process...."

"As citizens and elected officials consider the business of local government, they raise two key questions: What services and activities should be provided by local government? By what means should these services be provided? Your job is to set policies on what your jurisdiction is going to do; your professional staff will be responsible for figuring out how to carry out your decisions using your policies as guidelines. ...It is important that you keep focused on the big picture -- if you don't, no one else will."

In the attached materials, we have provided examples of current service level standards, and a long list of services identified by department directors. That list distinguishes between services believed to be "critical" and those defined by the directors as "less critical."

We hope the workshop and the policy guidance from the Council about service levels will be helpful in the preparation of our Five Year Financial Plan which is needed to bring spending, particularly in the General Fund, into alignment with a significantly reduced level of revenue.

FISCAL IMPACT: The workshop will provide policy direction for the preparation of the Five Year Financial Plan.

Current City Service Standards

As of November 25, 2003

Service standards describe *current goals for services provided to the community*. The standards below list <u>services to the public that are specific to a department</u>. General customer service practices, such as response times to e-mail and voicemail, and internal service levels, are outlined at the end of this document.

Each service standard is categorized as measuring one of the following aspects of a service:

- output/efficiency how much work is done/comparing the output to resources used
- transactional how the customer judges/feels about their interaction with the City

Department/ Division	Service Standard	Type of Standard	Origin
BAHS	2,630 businesses provided ombudsman services, sent information, or met with by a BAHS representative	output/ efficiency	Performance measure
CCO	Minutes completed within 2 weeks of meeting	output/ efficiency	Performance measure
CCO	90% of public record requests answered within 1 day; 8% within 10 days, 2% over 10 days	output/ efficiency	Performance measure
CCO	Accept, process and mail passports on the day accepted	output/ efficiency	Departmental standard
CCO	Respond to requests for setting meetings with the Mayor within 24 hours	output/ efficiency	Departmental standard
CDD – Building	Applications routed within 2 working days	output/ efficiency	Development Processing Services Study
CDD – Building	Tenant Improvement Projects to be plan checked in a period of 10 working days or less.	output/ efficiency	Development Processing Services Study
CDD – Building	Reviews of single and multiple family residential and commercial projects less than 10,000 square feet to be completed in 20 working days or less.	output/ efficiency	Development Processing Services Study
CDD – Building	Reviews of large commercial and industrial projects larger than 10,000 square feet to be completed in 30 working days or less.	output/ efficiency	Development Processing Services Study
CDD – Building	Respond to 95% of building inspection requests within 1 work day and all requests within 2 days	output/ efficiency	Development Processing Services Study
CDD – Planning	Forward non-compliant project designs without delay to ARB for disposition	output/ efficiency	Development Processing Services Study

Department/ Division	Service Standard	Type of Standard	Origin
CDD –	Site review applications processed within 90	output/	Performance
Planning	days	efficiency	measure
CMO	Completely process each cable complaint	output/	Performance
	within 2 working days	efficiency	measure
CMO	95% of customers rank their solid waste	transactional	Performance
	management services "good" or "excellent"		measure
CMO	93% of customers say they have enough	transactional	Performance
	information to properly participate in the City's recycling program		measure
CMO	The cable franchise agreement establishes a	output/	Cable Franchise
	variety of consumer protection and service standards.	efficiency	Agreement
CMO	The City's Cable Ordinance establishes a	output/	Municipal Code
	variety of consumer protection and service standards.	efficiency	
CMO	The waste franchise agreement establishes a	output/	Waste Franchise
	variety of consumer protection and service	efficiency	Agreement
	standards.		
Finance	95% of invoices paid by due date	efficiency	Performance
1 manec	7570 of invoices paid by due date	Ciffciency	measure
Finance	100% of utility bills sent out error-free	efficiency	Performance
			measure
Fire	Provide a total travel time of 5 minutes and a	output/	Fire Master Plan
	Total Response Time of 7 minutes to 90% of	efficiency	
	all emergency responses		
Fire	Contain Fire to the Room or area of	output/	Fire Master Plan
	involvement upon arrival of first suppression	efficiency	
P:	crews 90% of the time.		Fina Mantan Dlan
Fire	Limit the number of Commercial Fires per	output/ efficiency	Fire Master Plan
Fire	year to 5/1,000 Inspectable Occupancies Obtain Return of Spontaneous Circulation in	output/	Fire Master Plan
THC	8% of non-traumatic, cardiac arrest patients	efficiency	THE Master Flair
	experienced in the field.	Cifferency	
Fire	90% of all applicable Trauma Patients arrive	output/	Fire Master Plan
	at an appropriate Trauma Center within 50	efficiency	
	minutes of dispatch.		
Fire	65% of all applicable EMS calls receive	output/	Fire Master Plan
	appropriate by-stander intervention prior to	efficiency	
	arrival of public safety personnel.		
Fire	Receive 95% Good or Excellent rating in Responses to solicited Customer feedback.	transactional	Fire Master Plan

Department/ Division	Service Standard	Type of Standard	Origin
HR	80% of volunteer requests result in placement	output/	Performance
		efficiency	measure
Police	750/ of formal aitizana' complaints regulyed	output/	Performance
Police	75% of formal citizens' complaints resolved within 45 days of receipt	output/ efficiency	measure
Police	100% of Priority I calls responded to within 5	output/	Performance
ronce	minutes of receipt	efficiency	measure
Police	1.75 minutes between receipt of a Priority 1	output/	Performance
1 Office	call and dispatch of a unit	efficiency	measure
	can and dispatch of a unit	cificiency	ilicasurc
PW –	Initial submittals to be processed in 6 weeks	output/	Development
Engineering	1	efficiency	Processing
2			Services Study
PW –	Comply with recommended timelines for	output/	Development
Engineering	building plan check review	efficiency	Processing
_		-	Services Study
PW –	Clarify customer service policies and notify	output/	Development
Engineering	applicants	efficiency	Processing
			Services Study
PW – Park	Respond to non-emergency Customer Work	output/	Performance
Maintenance	Orders in 2 working days	efficiency	measure
PW – Street	Respond to non-emergency Customer Work	output/	Performance
Maintenance	Orders in 2 working days	efficiency	measure
PW – Street	Respond to emergency Customer Work	output/	Performance
Maintenance	Orders in 1 working day	efficiency	measure
PW – Sewer	Respond to non-emergency Customer Work	output/	Performance
Operations	Orders in 2 working days	efficiency	measure
PW – Sewer	Respond to emergency Customer Work	output/	Performance
Operations	Orders in 1 working day	efficiency	measure
PW – Water	Respond to non-emergency Customer Work	output/	Performance
Operations	Orders in 2 working days	efficiency	measure
PW – Water	Respond to emergency Customer Work	output/	Performance
Operations	Orders in 1 working day	efficiency	measure
PW – Meter	Respond to non-emergency Customer Work	output/	Performance
Reading	Orders in 2 working days	efficiency	measure
PW – Meter	Respond to emergency Customer Work	output/	Performance
Reading	Orders in 1 working day	efficiency	measure
D /:	CCC 0 PL 1 P + 1 000/ C +	1 , , ,	D / 1
Recreation	CCC & Playhouse Rentals - 80% of renters	output/	Departmental
D	return customer satisfaction surveys	efficiency	standard
Recreation	Recreation Classes - 50% of class members	output/	Departmental
<u></u>	return customer satisfaction surveys	efficiency	standard
Recreation	Security deposit returned within two weeks of	output/	Departmental
	event	efficiency	standard

Planned Activities for 2003/04 Which May Lead to Established Service Standards

From the 03/04 Workplan

BAHS: survey of BMR program participants

BAHS: economic development audit conducted by CALED

CMO: performance audit of South Valley Disposal and Recycling

CMO: City-wide survey, if conducted

CMO: communications review of residents and businesses

CDD: Building Division and Planning Division update of customer service questionnaire

Finance, Police: customer/citizen surveys

PW: establish park maintenance standards, incorporating results from park user surveys

From the Development Processing Services Study

CDD – Planning: Upgrade performance standards and improve performance measurement for development review in Planning. To be incorporated in Division Policy & Procedures.

CDD – Planning: Establish timelines for initial reviews and re-submittal reviews. To be incorporated in Division Policy & Procedures.

CDD – Planning: Clarify customer service policies and notify applicants. To be incorporated in Division Policy & Procedures.

PW – Engineering: Develop fast-track processing procedures in Engineering for simple projects

General Customer Service Standards

City Clerk's Office

- Return all voicemail messages within 24 hours
- Respond to all emails upon receipt

Internal Service Standards

City Clerk's Office

- Proclamations completed at requested time
- Process incoming mail as soon as it arrives, process outgoing mail by 3:30 P.M.
- Process Claims & Service of Legal Documents same day received
- Route faxes, FedEx, UPS and all other overnight deliveries as soon as they arrive.
- Copy and distribute council agendas by the end of the day; Friday.
- Respond/retrieve records from staff as soon as possible but no later then 1 week, depending on urgency (on site and off site storage/information)
- Complete Agenda Follow-up procedures for Ordinances, Resolutions, Minutes, and
 "Notices of Completion" within 1-5 days following the Council/RDA meeting
- Log, copy and distribute copies of Contracts/Agreements within 2-5 working days of receipt; same day if urgent process requested
- Complete Council/RDA minutes within 2 weeks of any given meeting

CDD – Planning

Applications routed within 2 working days

Human Resources

- 15% increase in customer satisfaction based on employee opinion survey follow-up
- 90% of internal requests for volunteers are fulfilled

Classification of City Services

December 2003

Each department or division has developed a list of "critical" and "less critical" services. Each department or division used their own criteria for determining "critical" services, however, in general, "critical" services include those which are legally required or established by contractual obligations, services for which fees are paid, and services for which staff believes there are strong customer expectations.

"Less critical" services include external and internal services that may be important, but are not required to be provided.

BUILDING ASSISTANCE AND HOUSING SERVICES

Note: For BAHS, the following criteria were used to categorize programs/projects/services as critical:

- Legally required/contractual obligation
- Maintains housing stock
- Funding already committed/spent
- Leverages funds
- Community expectations
- Efficient/effective services
- Assists in revenue enhancement

Critical Services	Less Critical Services
Economic Development Ombudsman	Liaison to Sister City Committee
Services (site selection, marketing/general	
info, contact with/liaison to business,	
assistance w/development processing,	
processing/negotiating assistance packages)	
Liaison to Morgan Hill Downtown	Staff to Mobile Home Rent Commission
Association	Historic Preservation (Acton Farmhouse &
	Museum)
Liaison to Chamber's Economic	Neighborhood Clean-up & Paint Grant
Development Committee (Retention Sub-	programs
Committee, Business Attraction Sub-	
Committee)	
Auto Dealer Strategy	Housing Rehab loan program
Administer Below Market Rate ownership	Façade grants
and rental programs, including sale of new	
homes, resale, refinancing	
CDBG programs	Small Business Fee Deferral program
California Redevelopment Law & State HCD	Audits of BMR program and Economic
Reporting & Monitoring	Development programs
Housing loan monitoring and servicing	Sewer/Traffic Fee Financing programs

Critical Services	Less Critical Services
Property management	Water tower
Vacancy Survey	Maintenance of housing program and
	economic development marketing materials
Senior Repair and Mobile Home Repair	Assisting other departments with studies
grants	rissisting other departments with studies
Downtown Request for Concepts Process	Implementation of Affordable Housing
(evaluating 23 proposals)	Strategy (develop new Homebuyer Assistance Program, work with Habitat for Humanity, develop Senior Housing, develop new construction for both rental and ownership units)
Manage relocation process for public works	Implementation of Economic Development
projects	Strategy (Walnut Grove PUD, industrial
	cluster analysis, retail analysis)
Reuse study for Albertson's Center	Implementation of Downtown Plan (develop work plan, parking management plan, public improvement study)
Affordable Housing Projects (Murphy Ranch II apartments, Jasmine Square, Royal Court apartments and town homes, Watsonville Rd Teacher housing)	Website management of BAHS programs
Management of Public Facility Projects:	Management of Public Facility Projects:
Aquatics Center, Library, Police Station	Fire station, El Toro/Friendly Inn, Indoor
Request for Proposals, County Courthouse,	Recreation Center
New Police Department Tenant	
Improvements and purchase of the building,	
Granary/Day Workers Center, Train Depot	
Lease and loan	
CITY CLERK'S OFFICE	
Critical Services	Less Critical Services
FPPC Filing Officer for Forms 700, Statement	Provide Council meals and refreshments;
of Economic Interests, campaign/committee	Chambers and meeting room set up and clean
disclosure forms.	up.
Oversee Municipal Elections, including	Compile Council/RDA agenda and staff
receiving petitions relating to initiatives,	reports for posting on website, and post
referendums, or recalls	
Coordinate development of and post	Format Resolutions and Ordinances submitted
Council/RDA and Financing Authority	by departments to bring them into consistent
meeting agendas; post and publish public	format.
hearings; verify posting of other boards,	
commission, and committee agendas	•

Critical Services	Less Critical Services
Develop and maintain the City-wide Records	Check Mayor's voice mail and e-mail
Management Program, including the "Record	messages; maintain calendar. Prepare
Retention Schedule." Publish Ordinance	correspondence from, and respond to
summaries in the newspaper.	correspondence to, Councilmembers.
Accept/process subpoenas, summons,	Attest student attendance at Council meetings
lawsuits, and claims against the City	
Recruit to fill vacancies on boards,	Register and coordinate transportation to
commissions, and committees; post annually;	community events such as Holiday Parade and
update rosters and provide information to new	Fourth of July Parade.
appointees.	·
Process records requests per the Public	Conduct City Tours for service groups
Records Act	ر و ا
Answer citizen inquires made by mail,	Accept/decline invitations, route/file/recycle
telephone, e-mail or in person; greet and	informational literature for Mayor and Council
direct customers to appropriate City staff	Members
member	
Receive/open sealed bids and record results	Accept and process passports (Note:
	elimination of this activity would result in loss
	of revenue to the City.)
Assist Mayor and Council, as needed	Keep track of all outbound requests to City
	Manager and other department directors,
	request responses in timely manner
Prepare and monitor completion of Mandated	Create a statement for the Mayor to read at
Cost forms for all agendas processed by City	Council meetings rather than him reading the
Clerk's office. Annually, gather and compile	entire proclamation
the Mandated Cost forms for all publicly	
noticed agendas for entire City.	
Fax voicemail messages to Mayor or call and	Participation in "Frontline Security" efforts
discuss urgent messages. Respond to citizens	
as directed by Mayor	
Assist Council Members with the preparation	Bind Council/RDA Agenda Packets
of proclamations and certificates of	
appreciation	
Distribute incoming/process outgoing mail for	Review all Council/RDA staff reports for
entire City; distribute faxes	typos and ensure that all appropriate
	attachments are included.
Open/distribute council/City Clerk	Assist other departments with various tasks
correspondence	
Assist with travel arrangements for Mayor	
and Council for all outside conferences and	
meetings	
Process, distribute and index Council and	
Administrative Policies and Procedures	
Greet and direct customers to appropriate City	
staff member; outside agencies	

Critical Services	Less Critical Services
Oversee central purchasing of City office	Dess Critical Services
supplies.	
Administrator of postage & copy machines.	
rammonator or postage at copy maximes.	
CITY MANAGER'S OFFICE	
Critical Services	Less Critical Services
Serve as administrative head of City	Broadcast of City Council meetings
government, responsible for managing the	
organization and implementing Council	
policy	
Executive Director of Redevelopment Agency	Communications and marketing (including
	City Visions, Morgan Hill Monthly, City
	website)
Personnel Officer	"Extra" solid waste diversion activities
Purchasing Agent	Government access TV
Director of Emergency Services	Legislative advocacy
AB 939 reporting and planning	Legislative analysis
Baseline solid waste diversion activities	Organizational audits/studies
Cable franchise administration and customer	Participation in community-based
service	organizations (i.e., Dayworker Center, Morgan
	Hill Health Foundation)
Emergency medical service response/	Public access TV
paramedic service	
Fire suppression	Solid Waste analytical studies
Hazardous materials response	Workplan development and reporting
Household hazardous waste management	
Information technology management	
Solid waste franchise administration and	
customer service	
Weed abatement	
COMMUNITY DEVELOPMENT – Buildin	<u> </u>
Critical Services	Less Critical Services
Building plan checking and inspection	Code enforcement (life/safety enforcement is
	Critical, all other activities are Less Critical)
	Building maintenance, including delivery of
	janitorial services, preventive maintenance,
	upgrades to facilities, emergency reports
	(repairs to keep services from failing are
	critical, all others less so)

COMMUNITY DEVELOPMENT – Planning Division			
Critical Services	Less Critical Services		
Application processing (requested service for	Long-range planning		
which costs are recovered; 20% increase			
required 7/1/04)			
Congestion Management (receipt of gas tax	Plan implementation		
funds is conditioned upon participation)	-		
	Inter-agency program participation (i.e.		
	participation in Coyote Valley Specific Plan,		
	South County Joint Planning Commission,		
	Inter-Regional Partnership)		
FINANCE			
Critical Services	Less Critical Services		
Business license billing and payment	Requisition processing and issuance of low		
processing	dollar purchase orders		
Utility billing and payment processing	Identifying addresses for out-of-town property		
	owners so they can receive City Visions		
Other billing and payment processing	Taking credit card payments over telephone		
Risk management claim monitoring, review	Monthly City and RDA financial and		
of contracts and other documents, and	investment reports		
management			
Accounts payable, including requisition	Comprehensive annual financial report		
processing and issuance of high dollar			
purchase orders			
Payroll	Mandated cost claims		
Bank deposits	Performance measure tracking and compilation		
City budget preparation, coordination, and	Special projects and research projects		
management			
Information technology support	General accounting support to other		
Concret accounting journal duties and	departments New grant application management and		
General accounting journal duties and monthly journal entries			
Bank reconciliation	monitoring		
Maintenance of accounting systems			
Maintenance of accounting systems Maintenance of assessment bond and revenue			
bond information			
Maintenance of existing grants databases and			
claims			
Investing City dollars to maximize safety,			
liquidity, and return (in that order)			
Quarterly City Investment Reports			
Strategic financial planning and projections			
Annual financial statements for City, RDA,			
and Corporation Yard			

Critical Services	Less Critical Services
Mandated federal, state, county, and other	
reports for:	
Annual bond issue continuing	
disclosure	
Annual Street report	
Annual Proposition 172 public safety	
report	
Annual reports of financial	
transactions for City, RDA, and	
Wastewater Facilities Financing	
Corporation	
Quarterly Income tax, payroll, sales	
tax, fuel tax, and underground tank fee	
returns	
 Annual Development Impact Fee 	
Report	
 Annual Statement of Indebtedness for 	
Redevelopment Agency	
Analysis, reporting, proposed changes, and	
implementation related to water, sewer,	
development processing, development impact,	
and other fees	
HUMAN RESOURCES	
Critical Services	Less Critical Services
Contract Negotiations (not necessary until	Enhanced Training Opportunities
early spring 2005)	
Rewrite and adopt new Personnel Rules (must	Getting data base up to speed (will make HR
be done in 2004)	paperwork processing much faster and more
	efficient)
Safety programs and training	Various employee events/programs
Benefit Administration	Educational incentive pay requalification
Workers' Compensation administration (may	Re-do Performance Evaluation Process
consider effectiveness of outsourcing)	
Employee relations and discipline	Website maintenance
Organizational Development/ Structure/	Temporary and seasonal employee processing
Morale	P 1
Recruitment & selection	Employee newsletter
Personnel records & file maintenance	
Department of Transportation Program	
(required drug testing program for drivers of	
Class A vehicles)	
Process Personnel Action Forms making	
changes to employee status	

POLICE DEPARTMENT – PATROL	
Critical Services	Less Critical Services
Timely completion of investigations	Non-injury traffic collisions
Injury accidents	Traffic Complaints
Hazardous traffic complainants	Alarms/chronic
Alarm calls/not chronic	Missing persons/chronic
Missing person at risk	Barking dog calls/loose dog calls/animal
	complaints
Vicious animals at large	Cold property crimes
Crimes in progress	Property crimes/noise complaints
Crimes against persons	Monthly articles for City Visions
Mandatory reporting i.e. child/elder abuse,	911 abandoned calls (i.e., pay
D.V. cases	phone/commercial)
Family/neighbor disturbances	
Suspicious person/vehicle calls	
911 hang-up from a residence	

POLICE	DEPARTME	$\mathbf{NT} - \mathbf{S}$	pecial (Operatio	ns

Critical Services	Less Critical Services
Investigative Review and follow-up felony	Investigative review and follow-up to
crimes against persons.	misdemeanor property crimes
24-hour call out response to critical incidents	Permit approval services e.g., massage, taxi
e.g., rape robbery, homicides	cab and various others
School resource officers dedicated to all	Special events review and approval for public
crime occurring on Jr. High and High School	safety issues
campuses in the City	
SWAT response to hazardous and critical	Participation in county-wide narcotic and auto
incidents	theft task forces
Public Information to media and local press	Crime prevention and neighborhood watch
Internal affairs investigation review	

POLICE DEPARTMENT – Support Services

Critical Services	Less Critical Services					
911 calls for services	Processing reports for warrant or closed/					
	suspended					
Processing in custody reports	DUI Cost recovery					
Processing reports with court dates	False alarm cost recovery					
Subpoena, citation and warrant processing	Press board/ Daily Activity Log					
CJIC bookings; pre-bookings	Background checks					
Bail	Clearance letters					
Registrants	Animal licensing					
Property/evidence processing	Stray animal calls/ barking dogs					
Processing CHP tow forms	Pawn slips, DROS slips					
UCR reporting	Calls for service inquiries					
Repossessions	Bike licenses					

Critical Services	Less Critical Services
Juvenile record sealing	Report copy requests
Management of information technology	Filing
services	
DA complaint returns	Maintain emergency listing cards
Response to PW calls	Take lost/found animal reports
Matron duties	Evidence/ property purge; warrant purge;
	records purged for marijuana charges
Vehicle releases	Assist with traffic control
DA requests for 911 tapes; DA complaint	Attend county wide committee meetings
returns	
Maintenance of online criminal justice-related	
reporting	
Crime lab run; vehicle shuttles	
Citation sign offs	
Station tours; walk-ins at front counter	
Kennel maintenance	
Found property reports	
Responding to animal calls for service;	
Transport animals to Humane Society	
Transcription of major cases	

PUBLIC WORKS – Engineering Division								
Critical Services	Less Critical Services							
Prepare CIP budget and present to Planning	Facilitate Bicycle and Trails Advisory							
Commission and City Council	Committee (BTAC) meetings, prepare agendas							
	and minutes							
Plan and design budgeted CIP projects	Organize and facilitate ground breaking and							
	ribbon cutting ceremonies for CIP projects							
Prepare bid packages and follow bidding	Prepare articles for City Visions							
procedure per California Contract Code								
Administer construction projects	Engineering representative located at City Hall							
	for 4 hours per day							
Provide inspection for CIP projects	Water Conservation program (depending on							
	time of year and drought conditions)							
Issue encroachment permits	Live response for every call received (calls							
	could be routed directly to each staff person's							
	desk)							
Provide technical and development guidance	Loan Animal Traps							
to developers and engineers								
Attend Development Review Committee								
meetings; provide timely plan checks								
Provide construction inspection								
Provide traffic engineering services								

Critical Services	Less Critical Services
Provide up-to-date fee estimate sheets,	
agreements, and all related development	
documents	
Provide engineering guidance, when	
necessary, to development projects under	
construction	
Storm Water Quality program	
FEMA support (update maps, provide flood	
information, process flood elevation	
certifications, manage flood insurance rate	
program, etc.)	
Receptionist to greet the public	
Make timely payment to consultants, vendors,	
and contractors	
Sell bid documents and track plan holders list	
Collect fees from Developers and permitees	
Process purchase orders and agreements in a	
timely manner	

RECREATION AND COMMUNITY SERVICES

Critical Services	Less Critical Services
Policies, procedures and process development	Staff support to committees such as YES,
for the Division and facilities	YAC
CIP support, management, client	Lock-down service in the evenings at the CCC (cost \$6k/yr)
Staff support to Parks and Recreation Commission and library Commission	Summer Concert Series
Library Bond Grant application	Children's holiday and Halloween parties
Monthly report with account tracking	Revise operating hours of the CCC
Preparing for operations of aquatic Center	After school program at Village Avante and Willows (subsidized)
Implementation of Parks, Facilities and	Park and sport field reservations
Recreation Programming Master Plan	
Conceptual design development of Sports	Participation in community special events
Complex	(Float in Independence Day parade, hometown
	Holidays, Brewfest at the CCC, Taste of MH)
Operate the Community Center and	Box-office role for ticketed events at the
Playhouse	Center
Marketing of facilities and programs	Outside organizational support (Rotary,
	Kiwanis)
Customer service: counter assistance and	
event assistance	
Summer playground program, birthday party packages	

Critical Services	Less Critical Services
Facility reservations and rentals	
Incorporate senior services now being contracted to the YMCA (\$75k)	
Volunteer services	
Processing of community special event permits	
Youth scholarships	
Art Ala Carte	
Cultural Dance Show	

Public Works Operations Critical/ Non Critical Functions December 3, 2003

MAINTENANCE DIVISION

PARKS

Critical

Turf Mowing of Parks, Sports Fields and Civic Center Grounds
Turf Maintenance: Aeration, Fertilization, and Broad Leaf Control
Irrigation System Maintenance/ Repair
Vegetation Management: Weed abatement, Shrubbery and ground cover
Rodent control
Restroom Maintenance
Vehicle/Equipment Maintenance

Non-Critical

Downtown Weekly Cleaning Downtown Irrigation Maintenance/Repair Special Event Review/approval/assistance Seasonal BBQ Cleaning/Reservation Posting Volunteer Project Assistance Integrated Pest Management

STREETS

Critical

Pothole Repair
Permanent Asphalt Roadway Patching/Repair
Arterial Median Maintenance
Concrete Sidewalk, Curb and Gutter Repair
Street sign repair/replacement
Street Sweeping
Storm Drain Maintenance/cleaning
Street light Maintenance/repair
Traffic Signal Maintenance/repair
Street Tree Trimming
Vehicle/Equipment Maintenance
Street/sidewalk claim review

Non-Critical

Special Event Permit Review/approval/assistance Integrated Pest Management Volunteer Project Assistance Shopping Cart Pick up

LANDSCAPE AND LIGHTING DISTRICT

Critical

Turf mowing
Turf maintenance
Irrigation System Maintenance/repair
Vegetation/ Groundcover trimming
Weed abatement
Rodent control
Play Equipment Maintenance/repair
Tree trimming

Non-critical

Trash pickup

UTILITIES DIVISION

WATER

Critical

Water Quality Assurance Testing/Reporting
Water Distribution pipeline maintenance/repair
Water Well & Pumpstation Maintenance/Repair
Backflow Testing/Reporting
Water Quality Complaints/Investigations
Water Reservoir Maintenance
Water Distribution System Training
Water Distribution System SCADA Maintenance/repair
Vehicle/Equipment Maintenance

Non-critical

Landscaping around water facilities Raising or establishing Blow-offs at dead end water mains

WATER METERS

Critical

Meter Reading
Water Meter replacement/repair/testing
New Account Service
Customer Complaints
Vehicle/Equipment Maintenance
Valve exercising

Non-critical

Fire Hydrant Maintenance/painting Install Radio Read MXU's

SEWER

Critical

Lift Station Maintenance/repair
Sewer Collection System Maintenance/repair
Sewer System complaints/investigations
Sewer Collection System Training
Sewer Collection System SCADA Maintenance/repair
Vehicle/equipment Maintenance
Video Inspection of problem areas

Non-critical

Landscaping around Sewer facilities

CITY ATTORNEY'S OFFICE

CRITICAL TASKS

- Litigation Response
- Attendance at City Council meetings
- · Contract negotiation, review and execution
- Legal opinions (and research) on
- Review and oversight of claims for risk management/settlement purposes
- Research and opinion issuance on currently filed claims/litigation matters

NON-CRITICAL TASKS

- Pro-active litigation (other than to recover money owed)
- Code enforcement (other than to address immediate health and safety issues)
- Attendance and Participation in Management group activities (other than for legal issues)
- Individual meetings with council members
- Meetings with Department Heads
- Pro-active review and revision of code, forms and policies
- Attendance at commission and committee meetings
- Research and opinion issuance on potential claim/litigation matters
- Training for council, commissions and staff
- Newsletter updates to council/staff



CITY COUNCIL STAFF REPORT MEETING DATE: December 17, 2003

NOVEMBER 2003 FINANCE & INVESTMENT REPORT

Agenda Item # 2
Prepared By:
Finance Director
Submitted By:
City Manager

RECOMMENDED ACTION:

Accept and File Report

EXECUTIVE SUMMARY:

Attached is the monthly Finance and Investment Report for the period ended November 30, 2003. The report covers the first five months of activity for the 2003/2004 fiscal year. A summary of the report is included on the first page for the City Council's benefit.

The monthly Finance and Investment Report is presented to the City Council and our Citizens as part of our ongoing commitment to improve and maintain public trust through communication of our finances, budget and investments. The report also serves to provide the information necessary to determine the adequacy/stability of financial projections and develop equitable resource/revenue allocation procedures.

This report covers all fiscal activity in the City, including the Redevelopment Agency. The Redevelopment Agency receives a separate report for the fiscal activity of the Agency at the meeting of the Agency. Presenting this report is consistent with the goal of *Maintaining and Enhancing the Financial Viability of the City*.

FISCAL IMPACT: as presented

CITY OF MORGAN HILL Monthly Financial and Investment Reports

November 30, 2003 – 42% Year Complete



Prepared by:

FINANCE DEPARTMENT



CITY OF MORGAN HILL, CALIFORNIA FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2003/04 FOR THE MONTH OF NOVEMBER 2003 - 42% OF YEAR COMPLETE

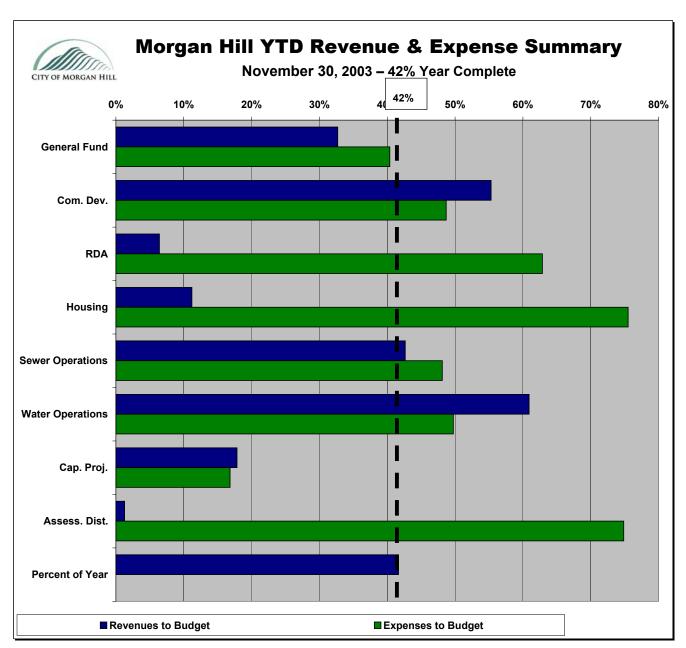
This analysis of the status of the City's financial situation reflects 42% of the year.

- **General Fund** The revenues received in the General Fund were approximately 33% of the budgeted revenues. The amount of Sales Tax collected was 38% of the sales tax revenue budget and was 12% less than the amount collected for the same period last year. Business license and other permit collections were 76% of the budgeted amount, a 2% decrease over the same period last year. Business license renewal fees are due in July; therefore the higher percent of budget collected early in the year is normal. Motor Vehicle-in-Lieu revenues were 20% of the budgeted amount, 49% less than the amount received at this time last year. This drop in Motor Vehicle-in-Lieu fees was caused by the State's elimination of the "State backfill" for these fees and the delay in implementation of higher fees that will offset this loss, resulting in much lower fees received by the City. A higher level of Motor Vehicle-in-Lieu fees will be received by the City if the State acts to appropriate funds to backfill the City's loss. As of this date, the State has not appropriated these funds and, while there have been calls for the State to pay these funds to cities and counties, the State's fiscal crisis makes this process complicated and problematic. Interest & Other Revenue were 34% of budget and reflect interest earnings only through September, since earnings for the quarter ending December will be posted following the end of the second quarter Certain current year revenues have not yet been received this early in the year. Most property taxes, gas & electric franchise fees, and cable TV franchise fees will not be received by the City until later in the year.
- * The General Fund expenditures and encumbrances to date totaled 40% of the budgeted appropriations. The outstanding encumbrances in several activities are encumbrances for projects started but not completed in the prior year and carried forward to the current fiscal year.
- * Transient Occupancy (Hotel) Tax The TOT rate is 10%. The City receives transient occupancy taxes on a quarterly basis. Taxes for the first quarter of the current year amounted to \$270,117, or 30% of budget, which was 5% less than the prior year.
- * Community Development Revenues were 55% of budget, which was 18% more than the amount collected in the like period for the prior year. Planning expenditures plus encumbrances were 58% of budget; Building has expended or encumbered 39% of budget and Engineering 48%. Community Development has expended or encumbered a combined total of 49% of the 2003/04 budget, including \$404,824 in encumbrances. If encumbrances were excluded, Community Development would have spent only 36% of the combined budget.
- * RDA and Housing Property tax increment revenues amounting to \$1,783,331 have been received as of November 30, 2003. The great bulk of these revenues will be received later in the fiscal year. Expenditures plus encumbrances totaled 59% of budget. If encumbrances totaling \$10,962,436 were excluded, the RDA would have spent only 37% of the combined budget. In July, the RDA spent \$3.4 million toward the Courthouse Project acquisition. In August, the Agency made a \$2.55 million installment payment toward the purchase of the Sports Fields Complex property. Through November, the Agency incurred \$3.1 million in acquisition and construction costs related to the Butterfield Blvd Phase IV Project and incurred \$2.5 million in costs associated with the construction of the Aquatics Complex. In July, the Agency also made a \$3 million loan to South County Housing for the Royal Court Housing Project.



CITY OF MORGAN HILL, CALIFORNIA FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2003/04 FOR THE MONTH OF NOVEMBER 2003 - 42% OF YEAR COMPLETE

- * Water and Sewer Operations- Water Operations revenues, including service fees, were 61% of budget. Expenditures totaled 50% of appropriations. The higher level of water operations expenditures was primarily associated with the timing of perchlorate related expenditures. Sewer Operations revenues, including service fees, were 43% of budget. Expenditures for sewer operations were 48% of budget. The amount spent to date for sewer operations was high because it included a scheduled \$1.4 million August debt service payment on outstanding sewer bonds.
- * Investments maturing/called/sold during this period. During the month of November, there was no significant activity related to investments. Further details of all City investments are contained on pages 6-8 of this report.



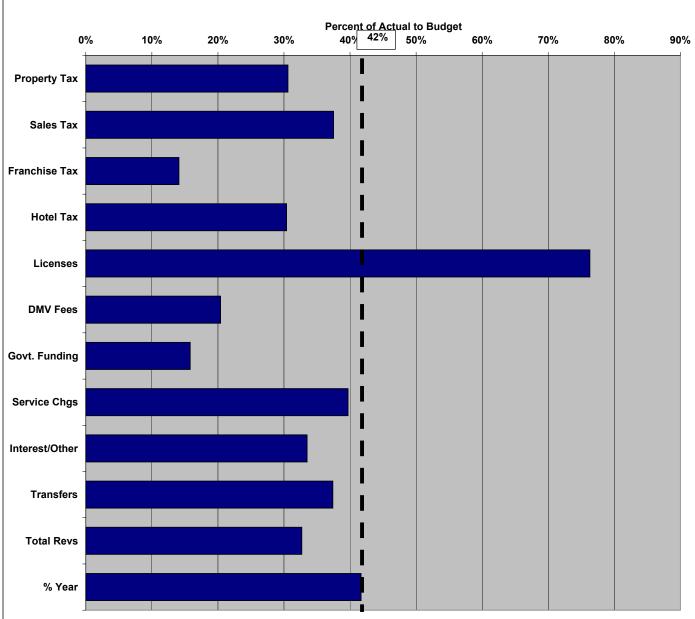
	REVENU	ES	EXPENS	11/30/2003	
		% OF	ACTUAL plus	% OF	UNRESTRICTED
FUND NAME	ACTUAL	BUDGET	ENCUMBRANCES	BUDGET	FUND BALANCE
General Fund	\$5,256,649	33%	\$6,696,610	40%	\$9,696,544
Community Development	1,258,852	55%		49%	1,243,401
RDA	1,508,903	6%		63%	(5,026,845)
Housing/CDBG	447,274	11%	3,780,737	76%	3,083,885
Sewer Operations	2,340,415	43%	3,615,236	48%	3,755,351
Sewer Other	1,316,033	106%	746,073	14%	11,918,395
Water Operations	4,308,579	61%	3,885,106	50%	3,003,143
Water Other	1,232,225	114%	2,267,701	43%	3,574,550
Other Special Revenues 1	263,170	34%	771,344	30%	2,541,256
Capital Projects & Streets Funds	2,395,552	18%	3,869,629	17%	23,583,990
Debt Service Funds	2,032	1%	176,915	75%	333,496
Internal Service	1,494,614	37%	1,789,992	44%	4,296,608
Agency	73,455	3%	2,210,643	85%	3,063,530
TOTAL FOR ALL FUNDS	\$21,897,753	27%	\$56,502,334	44%	\$65,067,304

¹ Includes all Special Revenue Funds except Community Development, CDBG, and Street Funds



Morgan Hill YTD General Fund Revenues

November 30, 2003 – 42% Year Complete

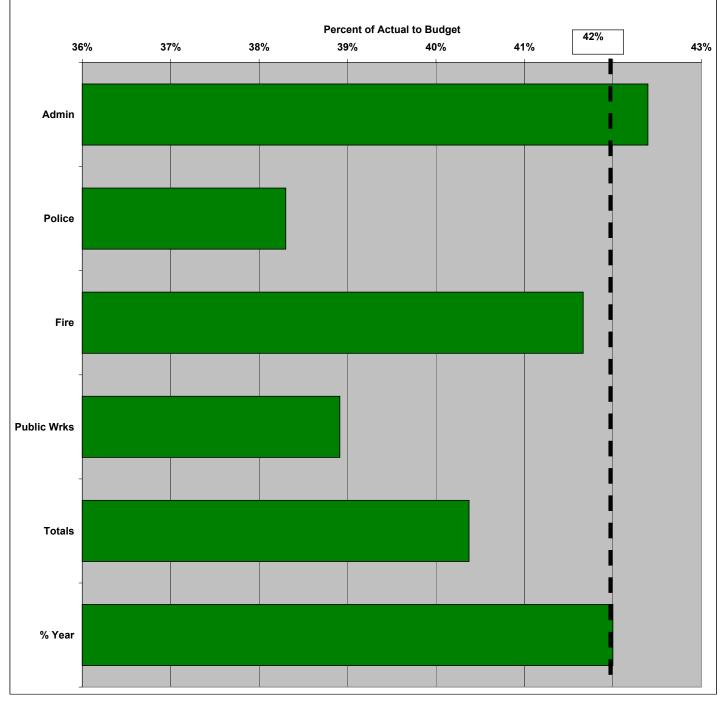


			% OF	PRIOR YEAR	% CHANGE FROM
REVENUE CATEGORY	BUDGET	ACTUAL	BUDGET	TO DATE	PRIOR YEAR
PROPERTY RELATED TAXES	\$2,440,000	\$745,709	31%	\$658,352	13%
SALES TAXES	\$4,923,000	\$1,847,901	38%	\$2,102,625	-12%
FRANCHISE FEE	\$961,180	\$135,208	14%	\$138,068	-2%
HOTEL TAX	\$890,000	\$270,117	30%	\$283,007	-5%
LICENSES/PERMITS	\$202,600	\$154,539	76%	\$157,069	-2%
MOTOR VEHICLE IN LIEU	\$2,080,000	\$424,880	20%	\$839,101	-49%
FUNDING - OTHER GOVERNMENTS	\$271,900	\$42,871	16%	\$18,494	132%
CHARGES CURRENT SERVICES	\$2,588,137	\$1,028,118	40%	\$899,324	14%
INTEREST & OTHER REVENUE	\$893,050	\$298,972	34%	\$183,949	63%
TRANSFERS IN	\$823,986	\$308,334	37%	\$39,584	679%
	•	•	•		•
TOTALS	\$16,073,853	\$5,256,649	33%	\$5,319,573	-1%



Morgan Hill YTD General Fund Expenditures

November 30, 2003 – 42% Year Complete



_				Actual Plus		
Expenditure Category		Budget		cumbrances	% of Budget	
	,					
ADMINISTRATION		5,205,392		2,206,859	42%	
POLICE		6,812,300		2,609,157	38%	
FIRE		3,745,220		1,560,407	42%	
PUBLIC WORKS		822,840		320,187	39%	
				•	•	
TOTALS	\$	16,586,586	\$	6,696,610	40%	



City of Morgan Hill Fund Activity Summary - Fiscal Year 2003/04 For the Month of November 30, 2003 42% of Year Completed

		Unaudited	Revenues		Expenses		Year to-Date	Ending Fun	d Balance	Cash and In	vestments
Fund		Fund Balance	YTD	% of	YTD	% of	Deficit or				
No.	Fund	06-30-03	Actual	Budget	Actual	Budget	Carryover	Reserved ¹	Unreserved	Unrestricted	Restricted ²
010	GENERAL FUND	\$11,136,505	\$5,256,649	33%	\$6,298,376	38%	(\$1,041,727)	\$398,234	\$9,696,544	\$10,357,640	\$4,150
TOTAL G	ENERAL FUND	<u>\$11,136,505</u>	\$5,256,649	<u>33%</u>	<u>\$6,298,376</u>	<u>38%</u>	(\$1,041,727)	<u>\$398,234</u>	\$9,696,544	<u>\$10,357,640</u>	<u>\$4,150</u>
202	STREET MAINTENANCE	\$1,683,131	\$632,372	46%	\$793,406	28%	(\$161,034)	\$1,041,666	\$480.431	\$1,324,151	
204/205	PUBLIC SAFETY/SUPPL. LAW	\$485,350	\$101,993	92%	\$113,993	42%	(\$12,000)	, ,,, ,,,,,	\$473,350	\$473,351	
206	COMMUNITY DEVELOPMENT	\$1,551,730	\$1,258,852	55%	\$1,162,357	36%	\$96,495	\$404,824	\$1,243,401	\$1,684,964	
207	GENERAL PLAN UPDATE	\$190,845	\$42,303	56%	\$10,521	5%	\$31,782	\$124,821	\$97,806	\$222,715	
210	COMMUNITY CENTER	\$360,157	\$1,446	23%	\$130,000	42%	(\$128,554)		\$231,603	\$231,603	
215 / 216	CDBG	\$636,136	\$5,705	4%	\$19,607	5%	(\$13,902)	529,987	\$92,247	\$190,386	
220	MUSEUM RENTAL	\$1,274	\$5	12%	\$830	34%	(\$825)		\$449	\$449	
225	ASSET SEIZURE	\$38,096	\$163	28%		n/a	\$163		\$38,259	\$38,259	
226	OES/FEMA										
229	LIGHTING AND LANDSCAPE	\$33,766	\$132	0%	\$63,649	38%	(\$63,517)	\$5,316	(\$35,067)	(\$29,463)	
232	ENVIRONMENT PROGRAMS	\$613,697	\$93,347	24%	\$136,803	27%	(\$43,456)	\$102,920	\$467,321	\$572,776	
234	MOBILE HOME PK RENT STAB.	\$9,808	\$5,173	82%	\$39,686	100%	(\$34,513)	\$22,705	(\$47,410)	(\$24,705)	
235	SENIOR HOUSING	\$255,610	\$1,093	16%			\$1,093		\$256,703	\$256,703	
236	HOUSING IN LIEU	\$1,043,306	\$4,466	16%	-		\$4,466	-	\$1,047,772	\$1,047,772	
240	EMPLOYEE ASSISTANCE	\$8,921	\$13,049	65%	11,500	58%	\$1,549		\$10,470	\$7,861	
TOTAL S	PECIAL REVENUE FUNDS	<u>\$6,911,827</u>	<u>\$2,160,099</u>	<u>47%</u>	\$2,482,352	<u>27%</u>	<u>(\$322,253)</u>	<u>\$2,232,239</u>	<u>\$4,357,335</u>	<u>\$5,996,823</u>	
301	PARK DEV. IMPACT FUND	\$3,191,630	\$384,406	88%	\$73,855	3%	\$310,551	\$146,664	\$3,355,517		\$3,502,181
302	PARK MAINTENANCE	\$2,909,243	\$55,269	21%	\$50,000	25%	\$5,269	\$140,004	\$2,914,512	\$2,914,512	φ3,302,101
303	LOCAL DRAINAGE	\$2,910,954	\$89,753	31%	\$6,633	0%	\$83,120		\$2,994,074	Ψ2,314,312	\$2,994,073
304	LOCAL DRAINAGE/NON-AB1600	\$3,276,514	\$60,064	38%	\$13,278	7%	\$46,786		\$3,323,300	\$3,203,300	φ2,004,070
305	OFF-STREET PARKING	\$4,020	\$17	18%	Ψ10,210	. 70	\$17		\$4,037	\$4,038	
306	OPEN SPACE	\$458,488	\$63,726	111%			\$63,726	\$10,000	\$512,214	\$522,214	
309	TRAFFIC IMPACT FUND	\$2,826,115	\$841,066	127%	\$250,687	15%	\$590,379	\$404,984	\$3,011,510	Ψ0==,= : :	\$3,402,703
311	POLICE IMPACT FUND	\$1,183,045	\$37,398	73%	\$12,769	1%	\$24,629	\$10,000	\$1,197,674		\$1,207,674
313	FIRE IMPACT FUND	\$2,603,859	\$110,684	75%	\$8,123	1%	\$102,561	\$13,254	\$2,693,166		\$2,706,420
317	REDEVELOPMENT AGENCY	\$20,860,548	\$1,508,903	6%	\$14,246,910	36%	(\$12,738,007)	13,149,386	(\$5,026,845)	\$5,868,392	, , ,
327 / 328	HOUSING	\$24,240,428	\$441,569	12%	\$3,595,559	42%	(\$3,153,990)	18,094,800	\$2,991,638	\$3,081,365	
340	MORGAN HILL BUS.RANCH I	\$48,290	\$206	18%			\$206		\$48,496	\$48,497	
342	MORGAN HILL BUS.RANCH II	\$54,233	232	n/a			\$232		\$54,465	\$54,464	
346	PUBLIC FACILITIES NON-AB1600	\$1,332,714	\$29,758	0%	16,107		\$13,651	\$8,438	\$1,337,927	\$1,346,365	
347	PUBLIC FACILITIES IMPACT FUND	\$665,032	\$52,144	111%	\$115,765	7%	(\$63,621)	601,411			\$564,741
348	LIBRARY IMPACT FUND	\$414,456	\$32,772	106%	\$94	42%	\$32,678		\$447,134		\$447,134
350	UNDERGROUNDING	\$1,257,217	5,376	17%	\$182	0%	\$5,194	53,185	\$1,209,226	\$1,262,411	
360	COMM/REC CTR IMPACT FUND		307	17%		0%	\$307		\$307	\$307	
TOTAL C	APITAL PROJECT FUNDS	<u>\$68,236,786</u>	<u>\$3,713,650</u>	<u>9%</u>	<u>\$18,389,962</u>	<u>27%</u>	(\$14,676,312)	<u>\$32,492,122</u>	<u>\$21,068,352</u>	<u>\$18,305,864</u>	<u>\$14,824,926</u>
527	HIDDEN CREEK	Ī		n/a	I		1			1	
533	DUNNE/CONDIT			n/a							
536	ENCINO HILLS	\$68,027	\$290	18%			\$290		\$68,317	\$68,317	
539	MORGAN HILL BUS. PARK	\$11,867	\$50	11%			\$50		\$11,917	\$11,916	
542	SUTTER BUSINESS PARK	\$24,910	\$107	15%			\$107		\$25,017	\$25,017	
545	COCHRANE BUSINESS PARK	\$374,418	\$1,461	1%	\$146,482	75%	(\$145,021)		\$229,397	\$48,447	\$180,950
551	JOLEEN WAY	\$29,157	\$124	0%	\$30,433	75%	(\$30,309)		(\$1,152)	(\$18,402)	\$17,250
TOTAL D	EBT SERVICE FUNDS	\$508,379	\$2,032	<u>1%</u>	<u>\$176,915</u>	<u>75%</u>	(\$174,883)		\$333,496	<u>\$135,295</u>	\$198,200



City of Morgan Hill Fund Activity Summary - Fiscal Year 2003/04 For the Month of November 30, 2003 42% of Year Completed

		Unaudited	Revenues	12,001	Expenses		Year to-Date	Ending Fun	d Balance	Cash and In	vestments
Fund		Fund Balance	YTD	% of	YTD	% of	Deficit or				
No.	Fund	06-30-03	Actual	Budget	Actual	Budget	Carryover	Reserved ¹	Unreserved	Unrestricted	Restricted ²
640	SEWER OPERATIONS	\$16,004,091	\$2,340,415	43%	\$3,538,652	47%	(\$1,198,237)	\$11,050,503	\$3,755,351	\$3,282,331	\$1,898,338
641	SEWER IMPACT FUND	\$7,772,110	\$1,162,080	185%	\$263,014	7%	\$899,066	3,247,057	\$5,424,119	. , ,	\$5,585,970
642	SEWER RATE STABILIZATION	\$3,804,228	\$16,266	18%	\$987	42%	\$15,279		\$3,819,507	\$3,819,507	
643	SEWER-CAPITAL PROJECTS	\$9,683,556	\$137,687	26%	\$310,988	19%	(\$173,301)	6,835,486	\$2,674,769	\$2,805,320	
650	WATER OPERATIONS	\$21,476,576	\$4,308,579	61%	\$3,183,238	6%	\$1,125,341	\$19,598,775	\$3,003,143	\$2,675,854	\$390,907
651	WATER IMPACT FUND	\$3,271,280	\$747,697	113%	\$362,839	14%	\$384,858	4,163,476	(\$507,339)		\$269,975
652	WATER RATE STABILIZATION	\$867,428	\$3,455	17%	\$354,396	42%	(\$350,941)		\$516,487	\$516,487	
653	WATER -CAPITAL PROJECT	\$9,092,130	\$481,073	120%	\$459,039	16%	\$22,034	5,548,762	\$3,565,402	\$3,879,514	
TOTAL E	NTERPRISE FUNDS	\$71,971,399	\$9,197,252	62%	\$8,473,153	<u>31%</u>	\$724,099	\$50,444,059	\$22,251,439	\$16,979,012	<u>\$8,145,190</u>
730	DATA PROCESSING	\$436,026	\$102,192	42%	\$88,141	34%	\$14,051	177,395	\$272,682	\$398,017	
740	BUILDING MAINTENANCE	\$400,151	\$372,720	42%	\$157,158	24%	\$215,562	28,242	\$587,471	\$627,835	
745	CIP ADMINISTRATION	\$59,437	\$518,135	36%	\$518,135	33%		146,728	(\$87,291)	\$101,080	
760	UNEMPLOYMENT INS.	\$47,278	\$7,363	25%	\$15,990	53%	(\$8,627)		\$38,651	\$38,651	
770	WORKER'S COMP.	\$6,147	\$199,160	29%	\$344,802	47%	(\$145,642)	35,411	(\$174,906)	\$413,125	\$40,000
790	EQUIPMENT REPLACEMENT	\$3,379,971	\$97,045	49%	\$42,731	16%	\$54,314	554,033	\$2,880,252	\$2,880,252	
793	CORPORATION YARD	\$264,851	\$38,671	24%	\$27,099	16%	\$11,572	238,097	\$38,326	\$32,152	
795	GEN'L LIABILITY INS.	\$856,668	\$159,328	41%	\$274,573	74%	(\$115,245)		\$741,423	\$1,067,239	
TOTAL II	NTERNAL SERVICE FUNDS	\$5,450,529	\$1,494,614	37%	\$1,468,629	36%	\$25,985		\$4,296,608	\$5,558,350	\$40,000
			 								
820	SPECIAL DEPOSITS									\$742,830	
841	M.H. BUS.RANCH A.D.	\$1,649,856	\$6,036	1%	\$985,373	136%	(\$979,337)		\$670,519	\$92,193	\$578,325
842	M.H. BUS. RANCH II A.D.	\$107,240	\$421	1%	\$38,739	100%	(\$38,318)		\$68,922	\$9,410	\$59,513
843	M.H. BUS. RANCH 1998	\$1,492,569	\$2,735	39%	\$583,071	67%	(\$580,336)		\$912,233	\$26,858	\$885,375
845	MADRONE BP-TAX EXEMPT	\$1,312,253	\$2,347		\$506,849	63%	(\$504,502)		\$807,751	\$9,078	\$798,673
846	MADRONE BP-TAXABLE	\$256,944	\$456	3%	\$96,611	56%	(\$96,155)		\$160,788	\$6,587	\$154,202
848	TENNANT AVE.BUS.PK A.D.	\$360,919	\$61,365	39%		na	\$61,365		\$422,284	\$422,286	
881	POLICE DONATION TRUST FUND	\$20,938	\$95	39%			\$95		\$21,033		\$21,033
TOTAL A	GENCY FUNDS	<u>\$5,200,719</u>	<u>\$73,455</u>	<u>3%</u>	\$2,210,643	<u>85%</u>	<u>(\$2,137,188)</u>		\$3,063,530	\$1,309,242	\$2,497,122
SUMMAR	RY BY FUND TYPE										
	GENERAL FUND GROUP	\$11,136,505	\$5,256,649	33%	\$6,298,376	38%	(\$1,041,727)	\$398,234	\$9,696,544	\$10,357,640	\$4,150
	SPECIAL REVENUE GROUP	\$6,911,827	\$2,160,099	47%	\$2,482,352	27%	(\$322,253)	\$2,232,239	\$4,357,335	\$5,996,823	
	DEBT SERVICE GROUP	\$508,379	\$2,032	1%	\$176,915	75%	(\$174,883)		\$333,496	\$135,295	\$198,200
	CAPITAL PROJECTS GROUP	\$68,236,786	\$3,713,650	9%	\$18,389,962	27%	(\$14,676,312)	\$32,492,122	\$21,068,352	\$18,305,864	\$14,824,927
	ENTERPRISE GROUP	\$71,971,399	\$9,197,252	62%	\$8,473,153	31%	\$724,099	\$50,444,059	\$22,251,439	\$16,979,012	\$8,145,190
	INTERNAL SERVICE GROUP	\$5,450,529	\$1,494,614	37%	\$1,468,629	36%	\$25,985		\$4,296,608	\$5,558,350	\$40,000
	AGENCY GROUP	\$5,200,719	\$73,455	3%	\$2,210,643	85%	(\$2,137,188)		\$3,063,530	\$1,309,242	\$2,497,122
	TOTAL ALL GROUPS	\$169,416,144	<u>\$21,897,751</u>	<u>27%</u>	\$39,500,030	<u>31%</u>	(\$17,602,279)	\$85,566,654	\$65,067,304	\$58,642,227	\$25,709,588
	TOTAL CASH AND INVESTMENTS									\$84,351,815	
	TOTAL CASTI AND INVESTIGIENTS									ψ04,331,013	

For Enterprise Funds - Unrestricted fund balance = Fund balance net of fixed assets and long-term liabilities.

¹ Amount restricted for encumbrances, fixed asset replacement, long-term receivables, and bond reserves.

² Amount restricted for debt service payments and AB1600 capital expansion projects as detailed in the City's five year CIP Plan and bond agreements.



CITY OF MORGAN HILL CASH AND INVESTMENT REPORT FOR THE MONTH OF NOVEMBER 2003 FOR THE FISCAL YEAR OF 2003-04

	Invested		Book Value	Investment Category	% of	Market
	in Fund	Yield	End of Month	Subtotal at Cost	Total	Value
<u>Investments</u>					·	
State Treasurer LAIF - City	All Funds Pooled	1.64%	\$32,467,805		38.48%	\$32,521,51
- RĎA	RDA	1.64%	\$6,407,273		7.60%	\$6,417,87
- Corp Yard	Corp Yard	1.64%	\$51,809		0.06%	\$51,89
Federal Issues	All Funds Pooled	3.55%	\$38.204.749		45.29%	\$38,120,36
SVNB CD	All Funds Pooled	1.70%	\$2,011,482		2.38%	\$2,011,48
Money Market	All Funds Pooled	0.85%	\$126,255	\$79,269,373	0.15%	\$126,25
Bond Reserve Accounts - held by trustees						
BNY - 2002 SCRWA Bonds						
MBIA Repurchase & Custody Agmt	Sewer	4.78%	\$1,849,400			
Blackrock Provident Temp Fund	CONTO	0.75%	\$48,938		2.25%	\$1,898,338
Blacklock Flowident Temp Fund		0.7576	φ40,930		2.23 /6	φ1,090,336
US Bank - 1999 Water C.O.P.						
First American Treasury Obligation	Water	0.71%	\$390,907		0.46%	\$390,907
JS Bank - MH Ranch 98	MH Ranch					
First American Treasury Obligation	Agency Fund	0.71%	\$885,375		1.05%	\$885,375
US Bank - Madrone Bus Park Tax Exempt	Madrone Bus Park					
First American Treasury Obligation	Agency Fund	0.71%	\$798,673		0.95%	\$798,673
US Bank - Madrone Bus Park Taxable	Madrone Bus Park					
First American Treasury Obligation	Agency Fund	0.71%	\$154,202	\$4,127,495	0.18%	\$154,202
Checking Accounts						
General Checking	All Funds		\$910,795		1.08%	\$910,79
Dreyfuss Treas Cash Management Account	All Funds		, , , , ,		0.00%	\$
Athens Administators Workers' Comp	Workers' Comp		\$40,000		0.05%	\$40,000
Petty Cash & Emergency Cash	Various Funds		\$4,150	\$954,945	0.00%	\$4,150
Total Cash and Investments			<u>\$84,351,814</u>	<u>\$84,351,814</u>	100.00%	\$84,331,826
			CASH ACTIVIT	Y SUMMARY		
			FY 03	3/04		
	7/1/2003		Change in	11/30/03		
Fund Type	Balance		Cash Balance	Balance	Restricted	Unrestricte
General Fund	\$11 108 677		(\$836.887)	\$10 361 790	\$4 150	\$10 357 640

	7/1/2003	Change in	11/30/03		
Fund Type	Balance	Cash Balance	Balance	Restricted	Unrestricted
General Fund	\$11,198,677	(\$836,887)	\$10,361,790	\$4,150	\$10,357,640
Community Development	\$1,598,168	\$86,796	\$1,684,964	\$0	\$1,684,964
RDA (except Housing)	\$18,789,948	(\$12,921,556)	\$5,868,392	\$0	\$5,868,392
Housing / CDBG	\$6,264,517	(\$2,992,766)	\$3,271,751	\$0	\$3,271,751
Water - Operations	\$2,197,360	\$869,401	\$3,066,761	\$390,907	\$2,675,854
Water Other	\$4,882,333	(\$216,357)	\$4,665,976	\$269,975	\$4,396,001
Sewer - Operations	\$6,399,908	(\$1,219,239)	\$5,180,669	\$1,898,338	\$3,282,331
Sewer Other	\$11,899,860	\$310,936	\$12,210,796	\$5,585,970	\$6,624,826
Other Special Revenue	\$3,011,901	(\$214,579)	\$2,797,322	\$0	\$2,797,322
Streets and Capital Projects (except RDA)	\$24,402,072	\$1,103,112	\$25,505,184	\$14,824,926	\$10,680,258
Assessment Districts	\$504,821	(\$171,326)	\$333,495	\$198,200	\$135,295
Internal Service	\$5,993,387	(\$395,037)	\$5,598,350	\$40,000	\$5,558,350
Agency Funds	\$5,943,872	(\$2,137,509)	\$3,806,363	\$2,497,121	\$1,309,242
Total	\$103,086,824	(\$18,735,013)	\$84,351,814	\$25,709,587	\$58,642,226

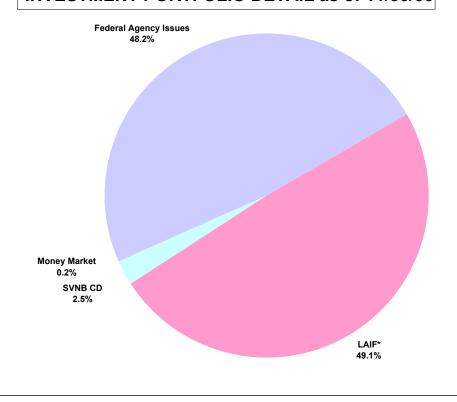
Note: See Investment Porfolio Detail for maturities of "Investments." Market values are obtained from the City's investment brokers' monthly reports. *Market Value as of 09/30/03

I certify the information on the investment reports on pages 6-8 has been reconciled to the general ledger and bank statements and that there are sufficient funds to meet the expenditure requirements of the City for the next six months. The portfolio is in compliance with the City of Morgan Hill investment policy and all State laws and regulations.

Prepared by:		Approved by:		
,,,,,,	Lourdes Reroma Accountant I	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	Jack Dilles Director of Finance	
Verified by:	Tine Dane		Miles Doordo	
	Tina Reza Assistant Director of Finance		Mike Roorda City Treasurer	



CITY OF MORGAN HILL INVESTMENT PORTFOLIO DETAIL as of 11/30/03



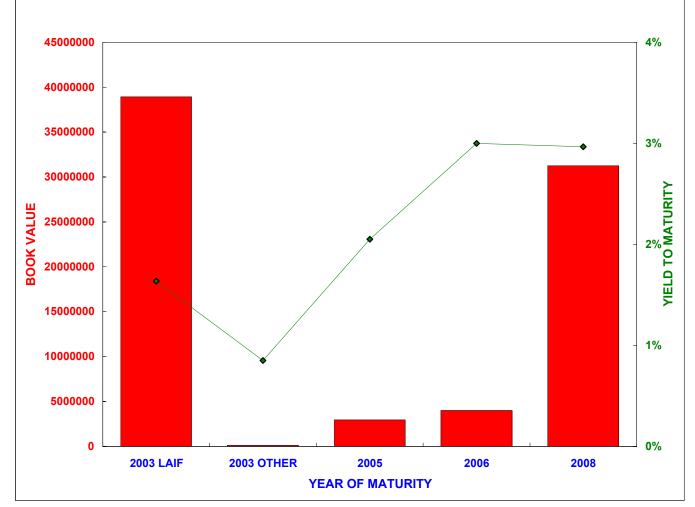
Investment Type	Purchase Date	Book Value	% of Portfolio	Market Value	Stated Rate	Interest Earned	Next Call Date	Date of Maturity	Years to Maturity
LAIF*		\$38,926,887	49.11%	\$38,991,282	1.635%	\$318,106			0.003
SVNB CD	07/07/03	\$2,011,482	2.54%	\$2,011,482	1.700%	\$13,883		07/07/05	1.682
Federal Agency Issues									
Fed Home Loan Bank	10/28/03	\$2,960,000	3.73%	\$2,960,000	2.050%	\$5,590	12/28/03	10/28/05	1.992
Fed Home Loan Bank	10/28/03	\$4,000,000	5.05%	\$4,000,000	3.000%	\$11,148	12/26/03	10/26/06	2.986
Fed Home Loan Bank	02/04/03	\$2,000,000	2.52%	\$2,006,880	3.900%	\$32,549	anytime	02/04/08	4.263
Fed Home Loan Bank	03/11/03	\$2,000,000	2.52%	\$1,999,380	3.500%	\$29,273	03/11/04	03/11/08	4.362
Fed Home Loan Mgt Corp	03/12/03	\$2,000,000	2.52%	\$2,017,860	3.500%	\$29,270	03/12/04	03/12/08	4.364
Fed Home Loan Bank	03/26/03	\$2,000,000	2.52%	\$1,991,880	3.375%	\$28,197	03/26/04	03/26/08	4.403
Fed Home Loan Mgt Corp	04/08/03	\$2,000,000	2.52%	\$2,023,760	3.700%	\$30,934	04/08/04	04/08/08	4.438
Fed Home Loan Mgt Corp	04/16/03	\$2,000,000	2.52%	\$2,021,680	3.600%	\$30,098	04/16/04	04/16/08	4.460
Fed Home Loan Mgt Corp	04/17/03	\$1,994,749	2.52%	\$2,002,180	3.625%	\$31,362	04/17/04	04/17/08	4.463
Fed Farm Credit Bank	05/14/03	\$2,000,000	2.52%	\$2,001,260	3.650%	\$30,388	anytime	05/14/08	4.537
Fed Farm Credit Bank	06/03/03	\$2,000,000	2.52%	\$1,975,000	3.210%	\$26,838	12/03/03	06/03/08	4.592
Fed Farm Credit Bank	06/12/03	\$2,000,000	2.52%	\$1,952,500	2.950%	\$24,664	12/12/03	06/12/08	4.616
Fed Home Loan Bank	07/30/03	\$2,000,000	2.52%	\$1,953,760	3.000%	\$20,217	01/30/04	07/30/08	4.748
Fed Home Loan Bank	07/30/03	\$2,000,000	2.52%	\$1,971,880	3.243%	\$22,037	01/30/04	07/30/08	4.748
Fed Home Loan Bank	07/30/03	\$2,000,000	2.52%	\$1,981,880	3.400%	\$22,913	01/30/04	07/30/08	4.748
Fed Home Loan Bank	08/04/03	\$2,000,000	2.52%	\$1,995,620	3.650%	\$23,606	02/04/04	08/04/08	4.762
Fed Home Loan Bank	08/14/03	\$1,250,000	1.58%	\$1,249,225	3.690%	\$13,662	02/14/04	08/14/08	4.789
Fed Home Loan Bank	10/15/03	\$2,000,000	2.52%	\$2,015,620	4.000%	\$5,137	10/15/04	10/15/08	4.959
Redeemed FY 03/04						\$41,384			
Sub Total/Average		\$38,204,749	48.20%	\$38,120,365	3.545%	\$459,267			4.208
Manay Markat		\$426.2EE	0.469/	\$426.25E	0.0500/	¢c 120			0.002
Money Market		\$126,255	0.16%	\$126,255	0.850%	\$6,139			0.003
TOTAL/AVERAGE	_	\$79,269,373	100.00%	\$79,249,384	2.259%	\$797,395			2.055

^{*}Per State Treasurer Report dated 11/30/2003, LAIF had invested approximately 17% of its balance in Treasury Bills and Notes, 15% in CDs, 21% in Commercial Paper and Corporate Bonds, 0% in Banker's Acceptances and 47% in others.



CITY OF MORGAN HILL

INVESTMENT MATURITIES AS OF NOVEMBER 30, 2003



YEAR OF	BOOK	MARKET	AVERAGE	% OF
MATURITY	VALUE	VALUE	RATE	TOTAL
2003 LAIF	\$38,926,887	\$38,991,282	1.635%	50.38%
2003 OTHER	\$126,255	\$126,255	0.850%	0.16%
2005	\$2,960,000	\$2,960,000	2.050%	3.83%
2006	\$4,000,000	\$4,000,000	3.000%	5.18%
2008	\$31,256,232	\$31,156,227	2.966%	40.45%
TOTAL	\$77,269,374	\$77,233,764	2.259%	100.00%



FUND	ADODTED	AMENDED	CURRENT	0/	DDIOD	INCR (DECR)	0/
REVENUE SOURCE	ADOPTED BUDGET	AMENDED BUDGET	YTD ACTUAL	% OF BUDGET	PRIOR YTD	FROM PRIOR YTD	% OF BUDGE
010 GENERAL FUND							
TAXES							
Property Taxes - Secured/Unsecured/Prio	1,972,200	1,972,200	560,079	28%	547,262	12,817	2%
Supplemental Roll	200,000	200,000	30,060	15%	19,786	10,274	52%
Sales Tax	4,650,000	4,650,000	1,759,794	38%	2,006,247	(246,453)	
Public Safety Sales Tax	273,000	273,000	88,107	32%	96,378	(8,271)	
Transient Occupancy Taxes	890,000	890,000	270,117	30%	283,007	(12,890)	
Franchise (Refuse ,Cable ,PG&E)	961,180	961,180	135,208	14%	138,068	(2,860)	
Property Transfer Tax	267,800	267,800	155,570	<u>58%</u>	91,304	64,266	70%
TOTAL TAXES	9,214,180	9,214,180	2,998,935	33%	3,182,052	(183,117)	
LICENSES/PERMITS							
Business License	154,500	154,500	137,229	89%	140,870	(3,641)	-3%
Other Permits	48,100	48,100	17,310	<u>36%</u>	16,199	1,111	<u>7%</u>
TOTAL LICENSES/PERMITS	202,600	202,600	154,539	76%	157,069	(2,530)	-2%
FINES AND PENALTIES							
Parking Enforcement	13,400	13,400	5,713	43%	2,859	2,854	100%
City Code Enforcement	77,300	77,300	12,348	16%	18,408	(6,060)	
Business tax late fee/other fines	2,600	2,600	486	<u>19%</u>	1,401	(915)	
TOTAL FINES AND PENALTIES	93,300	93,300	18,547	20%	22,668	(4,121)	· · · · · · · · · · · · · · · · · · ·
OTHER AGENCIES							
Motor Vehicle in-Lieu	2,080,000	2,080,000	424,880	20%	839,101	(414,221)	-49%
Other Revenue - Other Agencies	271,900	271,900	42,871	16%	18,494	24,377	132%
TOTAL OTHER AGENCIES	2,351,900	2,351,900	467,751	20%	857,595	(389,844)	-45%
CHARGES CURRENT SERVICES							
False Alarm Charge	24,700	24,700	7,773	31%	9,998	(2,225)	-22%
Business License Application Review	20,900	20,900	11,934	57%	9,760	2,174	22%
Recreation Classes	338,784	338,784	69,119	20%	30,283	38,836	128%
General Administration Overhead	2,007,978	2,007,978	836,658	42%	773,306	63,352	8%
Other Charges Current Services	195,775	195,775	102,634	<u>52%</u>	75,977	26,657	<u>35%</u>
TOTAL CURRENT SERVICES	2,588,137	2,588,137	1,028,118	40%	899,324	128,794	14%
OTHER REVENUE							
Use of money/property	775,550	775,550	267,867	35%	146,661	121,206	83%
Other revenues	24,200	24,200	12,558	<u>52%</u>	14,620	(2,062)	<u>-14%</u>
TOTAL OTHER REVENUE	799,750	799,750	280,425	35%	161,281	119,144	74%
FRANSFERS IN							
Park Maintenance	200,000	200,000	50,000	25%	25,000	25,000	100%
Sewer Enterprise	17,500	17,500	7,292	42%	7,292	-	n/a
Water Enterprise	17,500	17,500	7,292	42%	7,292	-	n/a
Public Safety	273,000	273,000	113,750	42%	-	113,750	n/a
Community Cultural Center	312,000	312,000	130,000	42%	-	130,000	n/a
Other Funds	3,986	3,986		<u>n/a</u>			<u>n/a</u>
TOTAL TRANSFERS IN	823,986	823,986	308,334	37%	39,584	268,750	679%
TOTAL TRUITO ENO IN		•					



FUND REVENUE	ADOPTED	AMENDED	CURRENT YTD	%	PRIOR	INCR (DECR) FROM PRIOR	%
SOURCE	BUDGET	BUDGET	ACTUAL	OF BUDGET	YTD	YTD	OF BUDGE
SPECIAL REVENUE FUNDS							
202 STREET MAINTENANCE							
Gas Tax 2105 - 2107.5	653,400	653,400	238,415	36%	243,338	(4,923)	-2%
Measure A & B	-	-	-	n/a	-	-	n/a
Tea 21	-	-	-	n/a	-	-	n/a
Transfers In	700,000	700,000	275,000	39%	344,250	(69,250)	-20%
Project Reimbursement		-	106,236	n/a	-	106,236	n/a
Interest / Other Revenue/Other Charges	14,861	14,861	12,721	<u>86%</u>	85,848	(73,127)	<u>-85%</u>
202 STREET MAINTENANCE	1,368,261	1,368,261	632,372	46%	673,436	(41,064)	-6%
204/205 PUBLIC SAFETY TRUST							
Interest Income	9,956	9,956	1,993	20%	5,608	(3,615)	-64%
Police Grant/SLEF	100,000	100,000	100,000	100%	100,000	-	n/a
PD Block Grant	-	-	-	n/a	-	-	n/a
CA Law Enforcement Equip.Grant	-	-	-	n/a	-	-	n/a
Federal Police Grant (COPS)	-	-	-	n/a	-	-	n/a
Transfers In		834		<u>n/a</u>	<u>-</u>		<u>n/a</u>
204/205 PUBLIC SAFETY TRUST	109,956	110,790	101,993	92%	105,608	(3,615)	-3%
206 COMMUNITY DEVELOPMENT							
Building Fees	1,100,500	1,100,500	915,252	83%	500,883	414,369	83%
Planning Fees	616,496	616,496	204,004	33%	257,570	(53,566)	-21%
Engineering Fees	519,600	519,600	119,018	23%	286,628	(167,610)	-58%
Other Revenue/Current Charges	9,763	9,763	8,078	83%	17,299	(9,221)	-53%
<u>Transfers</u>	30,000	30,000	12,500	<u>42%</u>	<u>-</u>	12,500	<u>n/a</u>
206 COMMUNITY DEVELOPMENT	2,276,359	2,276,359	1,258,852	55%	1,062,380	196,472	18%
207 GENERAL PLAN UPDATE	76,087	76,087	42,303	56%	50,021	(7,718)	-15%
215 and 216 HCD BLOCK GRANT							
HCD allocation	152,000	152,000		n/a	_	-	n/a
Interest Income/Other Revenue	3,900	3,900	5,705	146%	14,809	(9,104)	-61%
Transfers	782	782	-	<u>n/a</u>	-	-	<u>n/a</u>
215 and 216 HCD BLOCK GRANT	156,682	156,682	5,705	4%	14,809	(9,104)	-61%
210 COMMUNITY CENTER	6,198	6,198	1,446	23%	107,213	(105,767)	-99%
220 MUSEUM RENTAL	41	41	5	12%	32	(27)	-84%
225 ASSET SEIZURE	583	583	163	28%	497	(334)	-67%
226 OES/FEMA	-	-	-	n/a	-	•	n/a
229 LIGHTING AND LANDSCAPE	127,770	127,770	132	0%	540	(408)	-76%
232 ENVIRONMENTAL PROGRAMS	387,209	387,209	93,347	24%	132,178	(38,831)	-29%
34 MOBILE HOME PARK RENT STAB.	6,298	6,298	5,173	82%	6,256	(1,083)	-17%
235 SENIOR HOUSING	6,897	6,897	1,093	16%	2,062	(969)	-47%
236 HOUSING MITIGATION	27,775	27,775	4,466	16%	9,033	(4,567)	-51%
240 EMPLOYEE ASSISTANCE	20,162	20,162	13,049	65%	40,237	(27,188)	-68%
TOTAL SPECIAL REVENUE FUNDS	4,570,278	4,571,112	2,160,099	47%	2,204,302	(44,203)	-2%



AMENDED BUDGET 2 435,072 3 257,923 8 291,028 8 157,378 5 95 8 57,428 7 662,507 9 51,569 4 147,884 3 14,086,573 0 9,450,000 23,536,573 5 3,791,085 4 45,364	CURRENT YTD ACTUAL 384,406 55,269 89,753 60,064 17 63,726 841,066 37,398 110,684 1,394,397 - 93,787 20,719 1,508,903	% OF BUDGET 88% 21% 31% 38% 18% 111% 127% 73% 75% 10% n/a n/a 0% 6%		183,198 (66,706) (99,971) (70,926) (17) 61,575 629,183 (6,671) 5,607	% OF BUDG 91% -55% -53% -54% -50% 2863% 297% -15% 5%
2 435,072 3 257,923 8 291,028 8 157,378 5 95 8 57,428 7 662,507 9 51,569 4 147,884 3 14,086,573 0 9,450,000 3 23,536,573 5 3,791,085	384,406 55,269 89,753 60,064 17 63,726 841,066 37,398 110,684 1,394,397	88% 21% 31% 38% 18% 111% 127% 73% 75%	201,208 121,975 189,724 130,990 34 2,151 211,883 44,069 105,077	183,198 (66,706) (99,971) (70,926) (17) 61,575 629,183 (6,671) 5,607	91% -55% -53% -54% -50% 2863% 297% -15% 5%
2 435,072 3 257,923 8 291,028 8 157,378 5 95 8 57,428 7 662,507 9 51,569 4 147,884 3 14,086,573 0 9,450,000 23,536,573 5 3,791,085	384,406 55,269 89,753 60,064 17 63,726 841,066 37,398 110,684 1,394,397	88% 21% 31% 38% 18% 111% 127% 73% 75%	201,208 121,975 189,724 130,990 34 2,151 211,883 44,069 105,077	183,198 (66,706) (99,971) (70,926) (17) 61,575 629,183 (6,671) 5,607	91% -55% -53% -54% -50% 2863% 297% -15% 5%
3 257,923 8 291,028 8 157,378 5 95 8 57,428 7 662,507 9 51,569 4 147,884 3 14,086,573 0 9,450,000 3 23,536,573 5 3,791,085	55,269 89,753 60,064 17 63,726 841,066 37,398 110,684 1,394,397 93,787 20,719	21% 31% 38% 18% 111% 127% 73% 75%	121,975 189,724 130,990 34 2,151 211,883 44,069 105,077	(66,706) (99,971) (70,926) (17) 61,575 629,183 (6,671) 5,607	-55% -53% -54% -50% 2863% 297% -15% 5%
3 257,923 8 291,028 8 157,378 5 95 8 57,428 7 662,507 9 51,569 4 147,884 3 14,086,573 0 9,450,000 3 23,536,573 5 3,791,085	55,269 89,753 60,064 17 63,726 841,066 37,398 110,684 1,394,397 93,787 20,719	21% 31% 38% 18% 111% 127% 73% 75%	121,975 189,724 130,990 34 2,151 211,883 44,069 105,077	(66,706) (99,971) (70,926) (17) 61,575 629,183 (6,671) 5,607	-55% -53% -54% -50% 2863% 297% -15% 5%
8 291,028 8 157,378 5 95 8 57,428 7 662,507 9 51,569 4 147,884 3 14,086,573 0 9,450,000 3 23,536,573 5 3,791,085	89,753 60,064 17 63,726 841,066 37,398 110,684 1,394,397 - 93,787 20,719	31% 38% 18% 111% 127% 73% 75%	189,724 130,990 34 2,151 211,883 44,069 105,077 1,308,381	(99,971) (70,926) (17) 61,575 629,183 (6,671) 5,607	-53% -54% -50% 2863% 297% -15% 5%
8 157,378 5 95 8 57,428 7 662,507 9 51,569 4 147,884 3 14,086,573 0 9,450,000 23,536,573 5 3,791,085	60,064 17 63,726 841,066 37,398 110,684 1,394,397 93,787 20,719	38% 18% 111% 127% 73% 75% 10% n/a n/a 0%	130,990 34 2,151 211,883 44,069 105,077 1,308,381	(70,926) (17) 61,575 629,183 (6,671) 5,607	-54% -50% 2863% 297% -15% 5%
5 95 8 57,428 7 662,507 9 51,569 4 147,884 3 14,086,573 0 9,450,000 3 23,536,573 5 3,791,085	17 63,726 841,066 37,398 110,684 1,394,397 93,787 20,719	18% 111% 127% 73% 75% 10% n/a n/a 0%	34 2,151 211,883 44,069 105,077 1,308,381	(17) 61,575 629,183 (6,671) 5,607	-50% 2863% 297% -15% 5% 7% n/a
8 57,428 7 662,507 9 51,569 4 147,884 3 14,086,573 0 9,450,000 3 23,536,573 5 3,791,085	63,726 841,066 37,398 110,684 1,394,397 - 93,787 20,719	111% 127% 73% 75% 10% n/a n/a 0%	2,151 211,883 44,069 105,077 1,308,381	61,575 629,183 (6,671) 5,607	2863% 297% -15% 5% 7% n/a
7 662,507 9 51,569 4 147,884 3 14,086,573 0 9,450,000 23,536,573 5 3,791,085	841,066 37,398 110,684 1,394,397 - 93,787 20,719	127% 73% 75% 10% n/a n/a 0%	211,883 44,069 105,077 1,308,381	629,183 (6,671) 5,607	297% -15% 5% 7% n/a
9 51,569 4 147,884 3 14,086,573 0 9,450,000 23,536,573 5 3,791,085	37,398 110,684 1,394,397 - 93,787 20,719	73% 75% 10% n/a n/a <u>0%</u>	44,069 105,077 1,308,381 - 136,529	(6,671) 5,607 86,016	-15% 5% 7% n/a
4 147,884 3 14,086,573 0 9,450,000 23,536,573 5 3,791,085	1,394,397 - 93,787 	75% 10% n/a n/a <u>0%</u>	1,308,381 - 136,529	5,607 86,016	5% 7% n/a
3 14,086,573 0 9,450,000 23,536,573 5 3,791,085	1,394,397 - 93,787 	10% n/a n/a <u>0%</u>	1,308,381 - 136,529	86,016	7% n/a
0 9,450,000 3 23,536,573 5 3,791,085	93,787 20,719	n/a n/a <u>0%</u>	136,529	-	n/a
0 9,450,000 3 23,536,573 5 3,791,085	93,787 20,719	n/a n/a <u>0%</u>	136,529	-	n/a
23,536,573 5 3,791,085	20,719	n/a <u>0%</u>		(42,742)	
23,536,573 5 3,791,085	20,719	<u>0%</u>		(42,742)	
23,536,573 5 3,791,085				17 170	-31%
5 3,791,085			1,448,459	17,170 60,444	484% 4%
			, ,, ,,	,	
	200.024	400/	227 002	04.040	400/
4 45,364	388,934	10%	327,892	61,042	19% 9%
0 90	51,852 785	114% 872%	47,730 540	4,122 245	9% 45%
9 3,836,539	441,569	12%	376,162	65,409	45% 17%
7 9 875 877	29 758	0%	47 182	(17 424)	-37%
	•				24%
•	•		•	•	98%
•	•		•	•	-46%
•	•		•	• • •	-50%
,					-50%
, -	307	n/a	-	307	n/a
6 39,421,476	3,713,652	9%	2,948,226	765,426	26%
	7 9,875,877 0 46,900 2 30,782 5 31,495 4 1,144 2 1,282	7 9,875,877 29,758 0 46,900 52,144 2 30,782 32,772 5 31,495 5,376 4 1,144 206 2 1,282 232 307	7 9,875,877 29,758 0% 0 46,900 52,144 111% 2 30,782 32,772 106% 5 31,495 5,376 17% 4 1,144 206 18% 2 1,282 232 18% 307 n/a	7 9,875,877 29,758 0% 47,182 0 46,900 52,144 111% 41,935 2 30,782 32,772 106% 16,546 5 31,495 5,376 17% 9,962 4 1,144 206 18% 409 2 1,282 232 18% 460 307 n/a	7 9,875,877 29,758 0% 47,182 (17,424) 0 46,900 52,144 111% 41,935 10,209 2 30,782 32,772 106% 16,546 16,226 5 31,495 5,376 17% 9,962 (4,586) 4 1,144 206 18% 409 (203) 2 1,282 232 18% 460 (228) 307 n/a - 307



FUND REVENUE	ADOPTED	AMENDED	CURRENT YTD	%	PRIOR	INCR (DECR) FROM PRIOR	%
SOURCE	BUDGET	BUDGET	ACTUAL	OF BUDGET	YTD	YTD	OF BUDGE
ENTERPRISE FUNDS							
40 SEWER OPERATION							
Sewer Service Fees	5,321,460	5,321,460	2,249,112	42%	2,269,976	(20,864)	-1%
Interest Income	51,960	51,960	16,707	32%	37,541	(20,834)	-55%
Sewer Rate Stabilization	-	-	-	n/a	-	-	n/a
Other Revenue/Current Charges	113,950	113,950	74,596	<u>65%</u>	58,279	16,317	<u>28%</u>
40 SEWER OPERATION	5,487,370	5,487,370	2,340,415	43%	2,365,796	(25,381)	-1%
41 SEWER EXPANSION							
Interest Income	26,580	26,580	21,876	82%	52,851	(30,975)	
Connection Fees	600,000	600,000	1,139,874	190%	194,841	945,033	485%
<u>Other</u>			330	<u>n/a</u>	330		n/a
41 SEWER EXPANSION	626,580	626,580	1,162,080	185%	248,022	914,058	369%
42 SEWER RATE STABILIZATION	89,558	89,558	16,266	18%	30,432	(14,166)	-47%
43 SEWER-CAPITAL PROJECT	525,416	525,416	137,687	26%	157,023	(19,336)	-12%
TOTAL SEWER FUNDS	6,728,924	6,728,924	3,656,448	54%	2,801,273	855,175	31%
50 WATER OPERATION	F 720 250	E 700 0E0	2 000 270	0.40/	2 424 400	200,000	00/
Water Sales	5,738,350	5,738,350	3,690,279	64%	3,421,190	269,089	8%
Meter Install & Service	40,000	40,000	22,349 452,040	56% 43%	27,185	(4,836)	-18% 304%
Transfers-In, and Interest Income	1,045,785	1,045,785	,		111,949	340,091	
Other Revenue/Current Charges 50 WATER OPERATION	249,584 7,073,719	249,584 7,073,719	4,308,579	<u>58%</u> 61%	171,350 3,731,674	(27,439) 576,905	<u>-16%</u> 15%
S51 WATER EXPANSION Interest Income/Other Revenue/Transfer	501,803	501,803	560,898	112%	125,584	435,314	347%
Water Connection Fees	160,000	160,000	186,799	117%	66,804	119,995	180%
51 WATER EXPANSION	661,803	661,803	747,697	113%	192,388	555,309	289%
	•	•	•			•	
52 Water Rate Stabilization	20,517	20,517	3,455	17%	7,359	(3,904)	-53%
53 Water Capital Project	402,395	402,395	481,073	120%	335,923	145,150	43%
OTAL WATER FUNDS	8,158,434	8,158,434	5,540,804	68%	4,267,344	1,273,460	30%
OTAL ENTERPRISE FUNDS	14,887,358	14,887,358	9,197,252	62%	7,068,617	2,128,635	30%
NTERNAL SERVICE FUNDS							
30 INFORMATION SERVICES	245,262	245,262	102,192	42%	158,828	(56,636)	-36%
40 BUILDING MAINTENANCE SERVICES	891,042	891,042	372,720	42%	348,839	23,881	-30 % 7%
45 CIP ADMINISTRATION	1,447,120	1,447,120	518,135	36%	521,035	(2,900)	
60 UNEMPLOYMENT INSURANCE	29,452	29,452	7,363	25%		7,363	n/a
70 WORKERS COMPENSATION	687,700	687,700	199,160	29%	188,701	10,459	6%
90 EQUIPMENT REPLACEMENT	198,367	198,367	97,045	49%	228,737	(131,692)	
93 CORPORATION YARD COMMISSION	160,005	160,005	38,671	24%	852,279	(813,608)	
95 GENERAL LIABILITY INSURANCE	389,927	389,927	159,328	41%	145,516	13,812	9%



•							
FUND			CURRENT			INCR (DECR)	
REVENUE	ADOPTED	AMENDED	YTD	%	PRIOR	FROM PRIOR	%
SOURCE	BUDGET	BUDGET	ACTUAL	OF BUDGET	YTD	YTD	OF BUDGET
AGENCY FUNDS							
841 M.H. BUS.RANCH A.D. I	736,175	736,175	6,036	1%	12,386	(6,350)	-51%
842 M.H. BUS.RANCH A.D. II	37,177	37,177	421	1%	2,044	(1,623)	-79%
843 M.H. BUS.RANCH 1998	883,205	883,205	2,735	0%	8,166	(5,431)	-67%
845 MADRONE BP-TAX EXEMPT	807,439	807,439	2,347	0%	(27,808)	30,155	-108%
846 MADRONE BP-TAXABLE	167,254	167,254	456	0%	35,430	(34,974)	-99%
848 TENNANT AVE.BUS.PK A.D.	39,523	39,523	61,365	155%	2,772	58,593	2114%
881 POLICE DONATION TRUST FUND	245	245	95	39%	178	(83)	-47%
TOTAL AGENCY FUNDS	2,671,018	2,671,018	73,455	3%	33,168	40,287	121%
TOTAL FOR ALL FUNDS	81,830,508	81,831,342	21,897,753	27%	20,023,206	2,199,517	11%



City of Morgan Hill Year to Date Expenses - Fiscal Year 2003/04 For the Month of November 2003 42% of Year Completed

NO. FUND/ACTIVITY ACTUAL ADOPTED AMENDED YTD OUTSTANDING TOTAL TOTAL TO EXPENSES BUDGET BUDGET EXPENSES ENCUMBRANCE ALLOCATED BUDGET	FUND		THIS MONTH						PERCENT OF
EXPENSES BUDGET BUDGET EXPENSES ENCUMBRANCE ALLOCATED BUDGET	_	FUND/ACTIVITY		ADOPTED	AMENDED	YTD	OUTSTANDING		_
			EXPENSES	BUDGET	BUDGET	EXPENSES	ENCUMBRANCE	ALLOCATED	BUDGET

010 GENERAL FUND							
I. GENERAL GOVERNMENT							
COUNCIL AND MISCELLANEOUS GOVT.							
City Council	15,613	194,400	194,400	88,302	24,425	112,727	58%
Community Promotions	1,812	31,542	31,542	9,024		9,024	<u>29%</u>
COUNCIL AND MISCELLANEOUS GO	17,425	225,942	225,942	97,326	24,425	121,751	54%
CITY ATTORNEY	63,697	615,917	615,917	219,202	110,579	329,781	<u>54%</u>
CITY MANAGER							
City Manager	26,354	391,162	391,162	154,105	404	154,509	40%
Cable Television	4,273	45,236	46,986	20,316	19,573	39,889	85%
Communications & Marketing	10,798	106,576	106,576	38,737	22,274	61,011	<u>57%</u>
CITY MANAGER	41,425	542,974	544,724	213,158	42,251	255,409	47%
RECREATION							
Recreation	31,290	455,503	463,468	172,318	7,245	179,563	39%
Community & Cultural Center	38,498	739,223	766,023	206,296	118,655	324,951	42%
Aquatics Center	107	273,890	273,890	5,525	44 EEO	5,525	2%
Building Maintenance (CCC)	31,938	416,108	427,967	205,060	41,552	246,612	<u>58%</u>
RECREATION	101,833	1,884,724	1,931,348	589,199	167,452	756,651	39%
HUMAN RESOURCES							
Human Resources	48,501	582,687	582,687	238,230	1,464	239,694	41%
Volunteer Programs	1,885	34,442	34,442	10,157		10,157	<u>29%</u>
HUMAN RESOURCES	50,386	617,129	617,129	248,387	1,464	249,851	40%
CITY CLERK							
City Clerk	17,575	302,672	303,533	100,524	861	101,385	33%
Elections	2,882	70,576	70,576	15,907	<u> </u>	15,907	<u>23%</u>
CITY CLERK	20,457	373,248	374,109	116,431	861	117,292	31%
FINANCE	69,980	889,208	891,223	374,675	1,449	376,124	42%
MEDICAL SERVICES	-		5,000		-	-	n/a
TOTAL GENERAL GOVERNMENT	365,203	5,149,142	5,205,392	1,858,378	348,481	2,206,859	42%
II. PUBLIC SAFETY							
POLICE							
POLICE PD Administration	39,510	491,711	491,711	193,912		193,912	39%
Patrol	226,408	3,207,070	3,274,188	1,233,062	14,065	1,247,127	38%
Support Services	69,169	897,092	897,092	329,757	8,937	338,694	38%
Emergency Services/Haz Mat	4,482	33,858	33,858	20,960	4,013	24,973	74%
Special Operations	76,201	1,176,399	1,179,974	440,336	-	440,336	37%
Animal Control	5,967	76,159	76,159	30,637	-	30,637	40%
Dispatch Services	62,942	858,218	859,318	332,378	1,100	333,478	<u>39%</u>
POLICE	484,679	6,740,507	6,812,300	2,581,042	28,115	2,609,157	38%
FIRE	312,081	3,745,220	3,745,220	1,560,407	-	1,560,407	42%
TOTAL PUBLIC SAFETY	796,760	10,485,727	10,557,520	4,141,449	28,115	4,169,564	39%
III. COMMUNITY IMPROVEMENT							
PARK MAINTENANCE	105,426	810,323	822,840	298,549	21,638	320,187	39%
TOTAL COMMUNITY IMPROVEMENT	105,426	810,323	822,840	298,549	21,638	320,187	39%



City of Morgan Hill Year to Date Expenses - Fiscal Year 2003/04 For the Month of November 2003 42% of Year Completed

Public Safety 834	PERCENT OF TOTAL TO BUDGET	TOTAL ALLOCATED	OUTSTANDING ENCUMBRANCE	YTD EXPENSES	AMENDED BUDGET	ADOPTED BUDGET	THIS MONTH ACTUAL EXPENSES	FUND/ACTIVITY	FUND NO.
Public Safety 834								NSFERS	IV. TRA
TOTAL TRANSFERS 834	,				004				
SPECIAL REVENUE FUNDS	n/a n/a <u>n/a</u>	- - -	- - -		834			Public Safety	
SPECIAL REVENUE FUNDS	n/a	-	•	•	834	-	-	TAL TRANSFERS	TO
202 STREET MAINTENANCE Street Maintenance/Traffic 100,772 1,533,793 1,672,928 537,247 75,693 612,940 Congestion Management 12,871 78,686 78,868 28,758 28,758 28,758 Street CIP 130,480 514,800 1,111,206 227,401 965,973 1,193,374 202 STREET MAINTENANCE 244,123 2,127,461 2,863,002 793,406 1,041,666 1,835,072 204/205 PUBLIC SAFETY/SUPP.LAW 22,799 273,582 273,582 113,993 113,993 113,993 206 COMMUNITY DEVELOPMENT FUND Planning 101,596 979,437 1,129,767 460,626 196,041 656,667 80,001 670,467 956,070 1,016,487 335,063 61,849 396,912 PW-Engineering 74,477 1,029,375 1,072,275 366,668 146,934 513,602 206 COMMUNITY DEVELOPMENT FUND 246,540 2,964,882 3,218,529 1,162,357 404,824 1,567,181 207 GENERAL PLAN UPDATE 1,806 71,257 197,413 10,521 124,821 135,432 210 COMMUNITY DEVELOPMENT E	40%	6,696,610	398,234	6,298,376	16,586,586	16,445,192	1,267,389	ENERAL FUND	TOTAL (
202 STREET MAINTENANCE Street Maintenance/Traffic 100,772 1,533,793 1,672,928 537,247 75,693 612,940 Congestion Management 12,871 78,686 78,868 28,758 28,758 28,758 Street CIP 130,480 514,800 1,111,206 227,401 965,973 1,193,374 202 STREET MAINTENANCE 244,123 2,127,461 2,863,002 793,406 1,041,666 1,835,072 204/205 PUBLIC SAFETY/SUPP.LAW 22,799 273,582 273,582 113,993 113,993 113,993 206 COMMUNITY DEVELOPMENT FUND Planning 101,596 979,437 1,129,767 460,626 196,041 656,667 PW-Engineering 74,477 1,029,375 1,072,275 366,688 146,934 513,602 PW-Engineering 74,477 1,029,375 1,072,275 366,688 146,934 513,602 206 COMMUNITY DEVELOPMENT FUND 246,540 2,964,882 3,218,529 1,162,357 404,824 1,567,181 207 GENERAL PLAN UPDATE 1,806 71,257 197,413 10,521 124,821 135,432 210 COMMUNITY CENTER 26,000 312,000 312,000 310,000 - 130,000 215/216 CDBG 5,395 195,769 385,942 19,607 81,392 100,999 220 MUSEUM RENTAL 181 2,422 2,422 830 - 830 - 830 226 ASSET SEIZURE								REVENUE FLINDS	SPECIAL
Street Maintenance/Traffic									
Congestion Management 12,871 78,868 78,868 28,758 - 28,758 Street CIP 130,480 514,800 1,111,206 227,401 965,973 1,193,374	37%	612.040	75 602	F27 247	1 672 020	1 522 702	100 772		202 STR
Street CIP 130.480 514.800 1.111.206 227.401 965.973 1.193.374	36%		75,095						
204/205 PUBLIC SAFETY/SUPP.LAW 22,799 273,582 273,582 113,993 113,993 113,993 206 COMMUNITY DEVELOPMENT FUND Planning 101,596 979,437 1,129,767 460,626 196,041 656,667 80,041 956,070 1,016,487 335,063 61,849 396,912 PW-Engineering 74,477 1,029,375 1,072,275 366,668 146,934 513,602 206 COMMUNITY DEVELOPMENT FUND 246,540 2,964,882 3,218,529 1,162,357 404,824 1,567,181 207 GENERAL PLAN UPDATE 1,806 71,257 197,413 10,521 124,821 135,342 210 COMMUNITY CENTER 26,000 312,000 312,000 310,000 - 130,000 - 130,000 215/216 CDBG 5,395 195,769 385,942 19,607 81,392 100,999 220 MUSEUM RENTAL 181 2,422 2,422 830 - 830 225 ASSET SEIZURE	107%		965,973	,		,			
206 COMMUNITY DEVELOPMENT FUND	64%								202 STR
Planning Building 101,596 979,437 1,129,767 460,626 196,041 656,667 801,010 70,467 956,070 1,016,487 335,063 61,849 396,912 74,477 1,029,375 366,668 146,934 513,602 513,602 206 COMMUNITY DEVELOPMENT FUND 246,540 2,964,882 3,218,529 1,162,357 404,824 1,567,181 207 GENERAL PLAN UPDATE 1,806 71,257 197,413 10,521 124,821 135,342 210 COMMUNITY CENTER 26,000 312,000 312,000 130,000 - 130,000 215/216 CDBG 5,395 195,769 385,942 19,607 81,392 100,999 220 MUSEUM RENTAL 181 2,422 2,422 830 - 830 225 ASSET SEIZURE	42%	113,993		113,993	273,582	273,582	22,799	PUBLIC SAFETY/SUPP.LAW	204/205
Building								MMUNITY DEVELOPMENT FUND	206 COI
PW-Engineering 74.477 1.029.375 1.072.275 366.668 146.934 513.602 206 COMMUNITY DEVELOPMENT FUND 246,540 2.964,882 3.218,529 1.162,357 404,824 1,567,181 207 GENERAL PLAN UPDATE 1,806 71,257 197,413 10,521 124,821 135,342 210 COMMUNITY CENTER 26,000 312,000 312,000 130,000 - 130,000 215/216 CDBG 5,395 195,769 385,942 19,607 81,392 100,999 220 MUSEUM RENTAL 181 2,422 2,422 830 - 830 - 830 225 ASSET SEIZURE	58%	656,667	196,041	460,626	1,129,767	979,437	101,596	Planning	
206 COMMUNITY DEVELOPMENT FUND 246,540 2,964,882 3,218,529 1,162,357 404,824 1,567,181 207 GENERAL PLAN UPDATE 1,806 71,257 197,413 10,521 124,821 135,342 210 COMMUNITY CENTER 26,000 312,000 312,000 130,000 - 130,000 215/216 CDBG 5,395 195,769 385,942 19,607 81,392 100,999 220 MUSEUM RENTAL 181 2,422 2,422 830 - 830 225 ASSET SEIZURE	39%							•	
207 GENERAL PLAN UPDATE 1,806 71,257 197,413 10,521 124,821 135,342 210 COMMUNITY CENTER 26,000 312,000 312,000 130,000 - 130,000 215/216 CDBG 5,395 195,769 385,942 19,607 81,392 100,999 220 MUSEUM RENTAL 181 2,422 2,422 830 - 830 25 ASSET SEIZURE	<u>48%</u>							8 8	
210 COMMUNITY CENTER 26,000 312,000 312,000 130,000 - 130,000 215/216 CDBG 5,395 195,769 385,942 19,607 81,392 100,999 220 MUSEUM RENTAL 181 2,422 2,422 830 - 830 225 ASSET SEIZURE - - - - - - - 226 OES/FEMA - <td>49%</td> <td>1,567,181</td> <td>404,824</td> <td>1,162,357</td> <td>3,218,529</td> <td>2,964,882</td> <td>246,540</td> <td>MMUNITY DEVELOPMENT FUND</td> <td>206 COI</td>	49%	1,567,181	404,824	1,162,357	3,218,529	2,964,882	246,540	MMUNITY DEVELOPMENT FUND	206 COI
215/216 CDBG 5,395 195,769 385,942 19,607 81,392 100,999 220 MUSEUM RENTAL 181 2,422 2,422 830 - 830 225 ASSET SEIZURE	69%	135,342	124,821	10,521	197,413	71,257	1,806	GENERAL PLAN UPDATE	
220 MUSEUM RENTAL 181 2,422 2,422 830 - 830 225 ASSET SEIZURE - <td>42%</td> <td>•</td> <td>-</td> <td>-</td> <td>-</td> <td>-</td> <td>-</td> <td></td> <td></td>	42%	•	-	-	-	-	-		
225 ASSET SEIZURE -	26%	-	81,392	-	-	-	-		
226 OES/FEMA -	34%	830	-	830	2,422	2,422	181		
229 LIGHTING AND LANDSCAPE 13,621 154,755 167,001 63,649 5,316 68,965 232 ENVIRONMENT PROGRAMS 30,622 452,029 499,894 136,803 102,920 239,723 234 MOBILE HOME PARK 138 39,661 39,661 39,686 22,705 62,391 235 SENIOR HOUSING TRUST FUNI - 14,300 1,300 - 8,600 8,600 236 HOUSING MITIGATION FUND - 1,033,497 1,033,497 - - - - 240 EMPLOYEE ASSISTANCE - 20,000 20,000 11,500 - 11,500 TOTAL SPECIAL REVENUE FUNDS 591,225 7,661,615 9,027,243 2,482,352 1,792,244 4,274,596 CAPITAL PROJECT FUNDS 301 PARK DEVELOPMENT 31,462 1,570,296 2,192,254 73,855 146,664 220,519 302 PARK MAINTENANCE 200,000 200,000 50,000 <	n/a	-	-						
232 ENVIRONMENT PROGRAMS 30,622 452,029 499,894 136,803 102,920 239,723 234 MOBILE HOME PARK 138 39,661 39,661 39,686 22,705 62,391 235 SENIOR HOUSING TRUST FUNI - 14,300 14,300 - 8,600 8,600 236 HOUSING MITIGATION FUND - 1,033,497 1,033,497 240 EMPLOYEE ASSISTANCE - 20,000 20,000 11,500 - 11,500 TOTAL SPECIAL REVENUE FUNDS 591,225 7,661,615 9,027,243 2,482,352 1,792,244 4,274,596 CAPITAL PROJECT FUNDS 301 PARK DEVELOPMENT 31,462 1,570,296 2,192,254 73,855 146,664 220,519 302 PARK MAINTENANCE 200,000 200,000 50,000 - 50,000 303 LOCAL DRAINAGE 744 2,028,393 2,261,893 6,633 - 6,633 304 LOCAL DRAIN. NON-AB1600 2,656 191,868 191,868 13,278 - 13,278 305 OFF STREET PARKING - 3,986 3,986	n/a 41%	68 965	5 316	63 649	167 001	154 755	13 621		
234 MOBILE HOME PARK 138 39,661 39,661 39,686 22,705 62,391 235 SENIOR HOUSING TRUST FUNI - 14,300 14,300 - 8,600 8,600 236 HOUSING MITIGATION FUND - 1,033,497 1,033,497 - - - - 240 EMPLOYEE ASSISTANCE - 20,000 20,000 11,500 - 11,500 TOTAL SPECIAL REVENUE FUNDS CAPITAL PROJECT FUNDS CAPITAL PROJECT FUNDS 301 PARK DEVELOPMENT 31,462 1,570,296 2,192,254 73,855 146,664 220,519 302 PARK MAINTENANCE 200,000 200,000 50,000 - 50,000 303 LOCAL DRAINAGE 744 2,028,393 2,261,893 6,633 - 6,633 304 LOCAL DRAIN. NON-AB1600 2,656 191,868 191,868 13,278 - - - - 305 OFF STREET PARKING </td <td>48%</td> <td>•</td> <td>•</td> <td>-</td> <td>-</td> <td>-</td> <td>•</td> <td></td> <td></td>	48%	•	•	-	-	-	•		
235 SENIOR HOUSING TRUST FUNI - 14,300 14,300 - 8,600 8,600 236 HOUSING MITIGATION FUND - 1,033,497 1,033,497 240 EMPLOYEE ASSISTANCE - 20,000 20,000 11,500 - 11,500 TOTAL SPECIAL REVENUE FUNDS 591,225 7,661,615 9,027,243 2,482,352 1,792,244 4,274,596 CAPITAL PROJECT FUNDS 301 PARK DEVELOPMENT 31,462 1,570,296 2,192,254 73,855 146,664 220,519 302 PARK MAINTENANCE 200,000 200,000 50,000 - 50,000 303 LOCAL DRAINAGE 744 2,028,393 2,261,893 6,633 - 6,633 304 LOCAL DRAINAGE 744 2,028,393 2,261,893 6,633 - 6,633 304 LOCAL DRAIN. NON-AB1600 2,656 191,868 191,868 13,278 - 13,278 305 OFF STREET PARKING - 3,986 3,986	157%	-	•	•	-	-	-		
236 HOUSING MITIGATION FUND - 1,033,497 1,033,497 -	60%	•	-	-	•	•			
240 EMPLOYEE ASSISTANCE - 20,000 20,000 11,500 - 11,500 TOTAL SPECIAL REVENUE FUNDS CAPITAL PROJECT FUNDS 301 PARK DEVELOPMENT 31,462 1,570,296 2,192,254 73,855 146,664 220,519 302 PARK MAINTENANCE 200,000 200,000 50,000 - 50,000 303 LOCAL DRAINAGE 744 2,028,393 2,261,893 6,633 - 6,633 304 LOCAL DRAIN. NON-AB1600 2,656 191,868 191,868 13,278 - 13,278 305 OFF STREET PARKING - 3,986 3,986 - - - -	n/a	-	-	_		-	_		
CAPITAL PROJECT FUNDS 301 PARK DEVELOPMENT 31,462 1,570,296 2,192,254 73,855 146,664 220,519 302 PARK MAINTENANCE 200,000 200,000 50,000 - 50,000 303 LOCAL DRAINAGE 744 2,028,393 2,261,893 6,633 - 6,633 304 LOCAL DRAIN. NON-AB1600 2,656 191,868 191,868 13,278 - 13,278 305 OFF STREET PARKING - 3,986 3,986	58%	11,500	-	11,500			-	EMPLOYEE ASSISTANCE	240
301 PARK DEVELOPMENT 31,462 1,570,296 2,192,254 73,855 146,664 220,519 302 PARK MAINTENANCE 200,000 200,000 50,000 - 50,000 303 LOCAL DRAINAGE 744 2,028,393 2,261,893 6,633 - 6,633 304 LOCAL DRAIN. NON-AB1600 2,656 191,868 191,868 13,278 - 13,278 305 OFF STREET PARKING - 3,986 3,986	47%	4,274,596	1,792,244	2,482,352	9,027,243	7,661,615	591,225	PECIAL REVENUE FUNDS	TOTAL S
301 PARK DEVELOPMENT 31,462 1,570,296 2,192,254 73,855 146,664 220,519 302 PARK MAINTENANCE 200,000 200,000 50,000 - 50,000 303 LOCAL DRAINAGE 744 2,028,393 2,261,893 6,633 - 6,633 304 LOCAL DRAIN. NON-AB1600 2,656 191,868 191,868 13,278 - 13,278 305 OFF STREET PARKING - 3,986 - - - -									
302 PARK MAINTENANCE 200,000 200,000 50,000 - 50,000 303 LOCAL DRAINAGE 744 2,028,393 2,261,893 6,633 - 6,633 304 LOCAL DRAIN. NON-AB1600 2,656 191,868 191,868 13,278 - 13,278 305 OFF STREET PARKING - 3,986 - - - -								. PROJECT FUNDS	CAPITAL
303 LOCAL DRAINAGE 744 2,028,393 2,261,893 6,633 - 6,633 304 LOCAL DRAIN. NON-AB1600 2,656 191,868 191,868 13,278 - 13,278 305 OFF STREET PARKING - 3,986 - - - -	10%	-	146,664	•			31,462		
304 LOCAL DRAIN. NON-AB1600 2,656 191,868 191,868 13,278 - 13,278 305 OFF STREET PARKING - 3,986 - - - -	25%	•	-		-	•			
305 OFF STREET PARKING - 3,986	0%		-	6,633					
· · · · · · · · · · · · · · · · · · ·	7%		-		,	,	-		
- 10.6/10 404.404 404.05 1.724.71 555,355 1.724.7137 230.057 404.404 555.671	n/a 38%		404 004		•	•			
311 POLICE MITIGATION 554 1,206,645 1,226,645 12,769 10,000 22,769	38% 2%	-	•	-		-	-		
313 FIRE MITIGATION 554 1,206,645 1,226,645 12,769 10,000 22,769 313 FIRE MITIGATION 6,874 401,545 551,545 8,123 13,254 21,377	2% 4%	•	-	•					
317 RDA BUSINESS ASSISTANCE 2,460,189 27,346,151 39,964,614 14,246,910 10,878,257 25,125,167	63%	•	-	•	-	-	•		
327/328 RDA HOUSING 115,970 4,592,332 8,538,767 3,595,559 84,179 3,679,738	43%								
346 PUBLIC FAC.NON AB1600 852 9,808,000 9,808,000 16,107 8,438 24,545	0%		•				•		
347 PUBLIC FACILITIES 5,200 831,229 1,780,763 115,765 850,539 966,304	54%	•	•						
348 LIBRARY IMPACT 18 225 225 94 - 94	42%	-	-	•		-	-	LIBRARY IMPACT	348
350 UNDERGROUNDING 36 190,437 190,437 182 53,185 53,367	28%	53,367	53,185	182	190,437	190,437	36	UNDERGROUNDING	350
TOTAL CAPITAL PROJECTS FUNDS 2,635,033 49,307,440 68,631,132 18,389,962 12,449,500 30,839,462	45%	30,839,462	12,449,500	18,389,962	68,631,132	49,307,440	2,635,033	APITAL PROJECTS FUNDS	TOTAL O



City of Morgan Hill Year to Date Expenses - Fiscal Year 2003/04 For the Month of November 2003 42% of Year Completed

			72 /0 OI I Cai	Completed				
		THIS						
FUND		MONTH						PERCENT OF
NO.	FUND/ACTIVITY	ACTUAL	ADOPTED	AMENDED	YTD	OUTSTANDING	TOTAL	TOTAL TO
		EXPENSES	BUDGET	BUDGET	EXPENSES	ENCUMBRANCE	ALLOCATED	BUDGET
DEBT SI	ERVICE FUNDS							
	IUDDEN ODEEK A D							
527	HIDDEN CREEK A.D.	-	-	-	-	-	-	n/a
536	ENCINO HILLS A.D.	-	-	-	-	-	-	n/a
539	MORGAN HILL BUS. PARK A.D	-	-	-	-	-	-	n/a
542	SUTTER BUS. PARK A.D.	-	405.005	405.005	-	-	-	n/a
545 551	COCHRANE BUS. PARK A.D.	628	195,805	195,805	146,482	-	146,482	75% 75%
551	JOLEEN WAY A.D.	628	40,540	40,540	30,433	-	30,433	75%
TOTAL I	DEBT SERVICE FUNDS	1,256	236,345	236,345	176,915	-	176,915	75%
ENTERP	PRISE FUNDS							
SEWER								
640	SEWER OPERATION	175,772	7,418,125	7,513,797	3,538,652	76,584	3,615,236	48%
641	CAPITAL EXPANSION	32,863	3,576,249	3,697,697	263,014	40,534	303,548	8%
642	SEWER RATE STABILIZATION	197	2,369	2,369	987		987	42%
643	SEWER-CAPITAL PROJECTS	45,945	437,843	1,616,022	310,988	130,550	441,538	<u>27%</u>
TOTAL S	SEWER FUND(S)	254,777	11,434,586	12,829,885	4,113,641	247,668	4,361,309	34%
WATER								
	Water Operations Division	724,388	6,213,247	6,738,996	2,859,492	431,910	3,291,402	49%
	Meter Reading/Repair	27,640	637,156	669,538	170,402	251,948	422,350	63%
	Utility Billing	26,720	391,570	394,863	152,833	18,010	170,843	43%
	Water Conservation	102	8,213	8,213	511		511	<u>6%</u>
650	WATER OPERATIONS	778,850	7,250,186	7,811,610	3,183,238	701,868	3,885,106	50%
651	CAPITAL EXPANSION	39,550	1,546,253	2,652,299	362,839	777,314	1,140,153	43%
652	WATER RATE STABILIZATION	70,879	850,551	850,551	354,396	-	354,396	42%
653	WATER-CAPITAL PROJECTS	15,365	2,158,239	2,951,478	459,039	314,113	773,152	<u>26%</u>
TOTAL \	WATER FUND(S)	904,644	11,805,229	14,265,938	4,359,512	1,793,295	6,152,807	43%
TOTAL E	ENTERPRISE FUNDS	1,159,421	23,239,815	27,095,823	8,473,153	2,040,963	10,514,116	39%
INTERN	AL OFFINIOS FUNDO							
INTERN	AL SERVICE FUNDS							
730	INFORMATION SERVICES	16,767	245,262	262,996	88,141	125,334	213,475	81%
740	BUILDING MAINTENANCE	37,502	642,029	665,031	157,158	25,548	182,706	27%
745	CIP ENGINEERING	87,791	1,447,120	1,552,806	518,135	128,451	646,586	42%
760	UNEMPLOYMENT	9,079	30,000	30,000	15,990	· -	15,990	53%
770	WORKERS COMPENSATION	87,912	697,200	736,200	344,802	35,411	380,213	52%
790	EQUIPMENT REPLACEMENT	3,286	251,761	260,878	42,731	-	42,731	16%
793	CORP YARD COMMISSION	169	160,005	170,920	27,099	6,619	33,718	20%
795	GEN. LIABILITY INSURANCE	1,732	371,600	371,600	274,573	-	274,573	74%
TOTAL I	INTERNAL SERVICE FUNDS	244,238	3,844,977	4,050,431	1,468,629	321,363	1,789,992	44%
AGENCY	Y FUNDS							
044	MODOAN IIII I BUO BANOU I		700 700	700 700	005.070		005.070	4000/
841	MORGAN HILL BUS RANCH I	628	723,706	723,706	985,373	-	985,373	136%
842	MORGAN HILL BUS RANCH II	628	38,838	38,838	38,739	-	38,739	100%
843	MORGAN HILL BUS RANCH 98	628	871,086	871,086	583,071	-	583,071	67%
845	MADRONE BP-TAX EXEMPT	628	799,731	799,731	506,849	-	506,849	63%
846	MADRONE BP-TAXABLE	628	172,343	172,343	96,611	-	96,611	56%
848	TENNANT AVE BUS PARK AD	-	-	-	-	-	-	n/a
881	POLICE DONATION TRUST	-	-	-	-	-	-	n/a
TOTAL A	AGENCY FUNDS	3,140	2,605,704	2,605,704	2,210,643	-	2,210,643	85%
REPORT	T TOTAL	5,901,702	103,341,088	128,233,264	39,500,030	17,002,304	56,502,334	44%
		, , , . –	, , , , , , ,	, ,	,,	,,	, , , , , ,	



City of Morgan Hill Enterprise Funds Report - Fiscal Year 2003/04 For the Month of November 2003 42% of Year Completed

YTD INCOME STATEMENT FOR CURRENT AND PRIOR YEAR

		Sewer Oper	rations		Water Operations				
			% of	Prior			% of	Prior	
	Budget	YTD	Budget	YTD	Budget	YTD	Budget	YTD	
Operations									
Revenues									
Service Charges Meter Install & Service	\$ 5,321,460	\$ 2,249,112	42%		40,000	\$ 3,690,279 22,349	64% 56%	27,185	
Other	113,950	74,596	65%	58,279	249,584	236,095	95%	175,991	
Total Operating Revenues	5,435,410	2,323,708	43%	2,328,255	6,027,934	3,948,723	66%	3,624,366	
Expenses									
Operations Meter Reading/Repair Utility Billing/Water Conservation	4,533,215	1,863,755	41%	1,602,788	4,750,307 637,156 399,783	2,374,515 170,402 153,344	50% 27% 38%	1,819,749 299,577 134,903	
Total Operating Expenses	4,533,215	1,863,755	41%	1,602,788	5,787,246	2,698,261	47%	2,254,229	
Operating Income (Loss)	902,195	459,953		725,467	240,688	1,250,462		1,370,137	
Nonoperating revenue (expense)									
Interest Income Interest Expense/Debt Services Principal Expense/Debt Services	51,960 (856,625) (1,115,000)	16,707 (297,135) (1,115,000)	32% 35% 100%	(692,799)	, , ,	· /	50% 14%	34,859 (164,273) (29,147)	
Total Nonoperating revenue (expense)	(1,919,665)	(1,395,428)		(1,368,541)	(545,440)	(178,959)		(158,561)	
Income before operating xfers	(1,017,470)	(935,475)		(643,074)	(304,752)	1,071,503		1,211,576	
Operating transfers in Operating transfers (out)	(913,285)	(262,762)	29%	(288,074)	1,045,785 (917,500)	348,595 (294,757)	33% 32%	72,449 (588,958)	
Net Income (Loss)	\$ (1,930,755)	\$ (1,198,237)		\$ (931,148)	\$ (176,467)	\$ 1,125,341		\$ 695,067	



City of Morgan Hill Balance Sheets - Water and Sewer Funds November 30, 2003 42% of Year Complete

	Sewer Operations (640)	Sewer Expansion Stabilization Capital Projects (641-643)	Water Operations (650)	Water Expansion Stabilization Capital Projects (651-653)
ASSETS				
Cash and investments:				
Unrestricted	3,282,331	6,624,827	2,675,854	4,396,001
Restricted ¹	1,898,338	5,585,970	389,814	269,975
Accounts Receivable		6,894		
Utility Receivables	808,960		1,127,182	
Less Allowance for Doubtful Accounts	(2,633)		(2,751)	
Notes Receivable ² Fixed Assets ³	31,802,422	9,911,459	23,624,142	8,620,812
Total Assets	37,789,418	22,129,150	27,814,241	13,286,788
LIABILITIES				
Accounts Payable and Accrued Liabilities Deposits for Water Services & Other Deposits Deferred Revenue 4	256,723	128,212	60,490 34,784	
Bonds Payable	25,390,000		5,985,863	
Discount on Bonds and Other Liabilities	(2,705,125)		(957,773)	
Accrued Vacation and Comp Time	41,966		88,959	
Total liabilities	22,983,564	128,212	5,212,323	0
FUND EQUITY				
Contributed Capital Retained Earnings	6,686,483		13,047,150	
Reserved for:				
Noncurrent water/sewer assets & debt	9,075,581	9,911,459	18,507,093	8,620,811
Encumbrances	76,584	171,084	701,868	1,091,427
Notes Receivable Restricted Cash	1,898,338	0	389,814	
Total Reserved Retained Earnings	11,050,503	10,082,543	19,598,775	9,712,238
Unreserved Retained Earnings	3,755,351	11,918,395	3,003,143	3,574,550
Total Fund Equity	14,805,854	22,000,938	22,601,918	13,286,788
Total Liabilities and Fund Equity	37,789,418	22,129,150	27,814,241	13,286,788

Restricted for Bond Reserve requirements and capital expansion.
 Includes Note for Sewer Financing Agreements.
 Includes Water and Sewer infrastructure and the City's share of the Wastewater treatment plant.

⁴ Includes the deferred payment portion of the loans noted above.



City of Morgan Hill Balance Sheets for Major Funds - Fiscal Year 2003/04 November 30, 2003 42% of Year Complete

L/M Housing

Sewer

Water

RDA

	(Fund 010)	(Fund 317)	(Fund 327/328)	(Fund 640)	(Fund 650)
ASSETS					
Cash and investments:					
Unrestricted	10,357,640	5,868,392	3,081,365	3,282,331	2,675,854
Restricted ¹	4,150			1,898,338	389,814
Accounts Receivable	932,582	3,200	7,806	808,960	4 427 492
Utility Receivables (Sewer and Water) Less Allowance for Doubtful Accounts				(2,633)	1,127,182 (2,751)
Loans and Notes Receivable ²	448,594	3,343,914	24,296,876	(=,==,	(=,:)
Prepaid Expense	,	, ,	, ,		
Fixed Assets ³		71,049		31,802,422	23,624,142
Total Assets	11,742,966	9,286,555	27,386,047	37,789,418	27,814,241
LIABILITIES					
Accounts Payable and Accrued Liabilities	296,326	20,180	13,353	256,723	60,490
Deposits for Water Services & Other Deposits	29,836				34,784
Deferred Revenue ⁴	1,142,790	1,143,834	6,286,256		
Bonds Payable Discount on Bonds and Other Liabilities	179,236			25,390,000 (2,705,125)	5,985,863 (957,773)
Accrued Vacation and Comp Time	173,200			41,966	88,959
Total liabilities	1,648,188	1,164,014	6,299,609	22,983,564	5,212,323
FUND EQUITY					
Contributed Capital				6,686,483	13,047,150
Fund Balance / Retained Earnings					
Reserved for:					
Noncurrent water/sewer assets & debt				9,075,581	18,507,093
Encumbrances	398,234	10,878,257	84,179	76,584	701,868
Restricted Cash RDA properties held for resale		71,049		1,898,338	389,814
Loans and Notes Receivable		2,200,080	18,010,621		
Total Reserved Fund Equity	398,234	13,149,386	18,094,800	11,050,503	19,598,775
Designated Fund Equity ⁵	7,300,000				
Unreserved/Undesignated Fund Equity	2,396,544	(5,026,845)	2,991,638	3,755,351	3,003,143
Total Fund Equity	10,094,778	8,122,541	21,086,438	14,805,854	22,601,918
Total Liabilities and Fund Equity	11,742,966	9,286,555	27,386,047	37,789,418	27,814,241

General Fund

¹ Restricted for Petty Cash use, Bond Reserve requirements and sewer and water capital expansion.

² Includes Housing Rehab loans, Financing Agreements for Public Works Fees and loans for several housing and Agency projects.

³ Includes Water and Sewer infrastructure, the City's share of the Wastewater treatment plant and RDA properties held for resale.

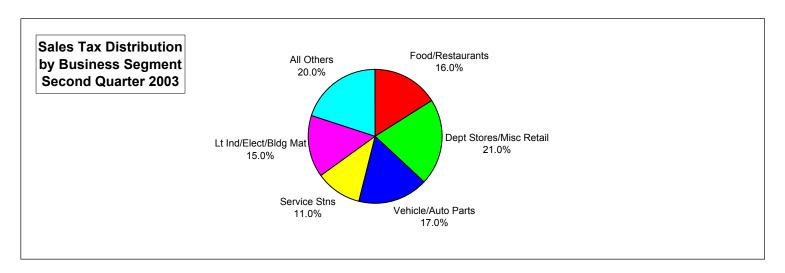
⁴ Includes the deferred payment portion of the loans noted above.

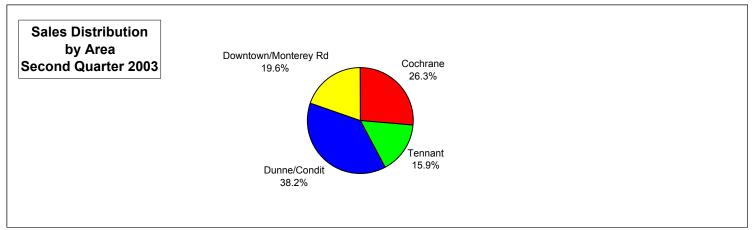
⁵ Designated for economic uncertainty, emergencies, and Fire Master Plan implementation



City of Morgan Hill
Sales Tax Comparison - Fiscal Year 2003/04
For the Month of November 2003
42% of Year Complete

	Amount Collecte	d for Month fo	or Fiscal Year	Amount Colle	cted YTD for	Fiscal Year	Comparison of YT	D for fiscal years
Month	03/04	02/03	01/02	03/04	02/03	01/02	03/04 to 02/03	03/04 to 01/02
		•			•			•
July	\$338,300	\$367,600	\$377,700	\$338,300	\$367,600	\$377,700	(29,300)	(39,400)
August	\$451,000	\$447,000	\$503,600	\$789,300	\$814,600	\$881,300	(25,300)	(92,000)
September	\$232,994	\$361,932	\$437,056	\$1,022,294	\$1,176,532	\$1,318,356	(154,238)	(296,062)
October	\$316,100	\$354,915	\$339,000	\$1,338,394	\$1,531,447	\$1,657,356	(193,053)	(318,962)
November	\$421,400	\$474,800	\$452,000	\$1,759,794	\$2,006,247	\$2,109,356	(246,453)	(349,562)
December		\$384,154	\$538,465		\$2,390,401	\$2,647,821		
January		\$368,600	\$393,900		\$2,759,001	\$3,041,721		
February		\$487,195	\$466,068		\$3,246,196	\$3,507,789		
March		\$225,908	\$351,548		\$3,472,104	\$3,859,337		
April		\$292,698	\$341,042		\$3,764,802	\$4,200,379		
May		\$394,500	\$461,500		\$4,159,302	\$4,661,879		
June		\$477,624	\$208,416		\$4,636,926	\$4,870,295		
Year To Da	ite Totals			\$1,759,794	\$4,636,926	\$4,870,295		
Sales Tax E	Budget for Year			\$4,650,000	\$5,330,000	\$5,300,000		
Percent of Percent of	Budget increase(decreas	e)		38%	87%	92%	-12%	-17%







CITY COUNCIL STAFF REPORT MEETING DATE: December 17, 2003

Planning Manager

Agenda Item # 4

Approved By:

Prepared By:

Community Development Director

Submitted By:

City Manager

SUBDIVISION, SD-03-11: COCHRANE – COYOTE ESTATES

RECOMMENDED ACTION: Take no action, thereby concurring with the Planning Commission's decision regarding approval of the subdivision map.

EXECUTIVE SUMMARY: The applicant is requesting to subdivide a 7.215-acre portion of a 69-acre project area to construct 25 units representing Phases 8 through 10 of the Coyote Estates development. Also requested is the approval of a development agreement covering the 25 units proposed within the subdivision. The project is located on the east and west sides of Peet Road, north of Cochrane Road and south of Eagle View Drive.

The Coyote Estates project began construction in 1994. Construction has been completed on 137 of 208 total planned home sites on approximately 69 acres. On November 20, 2003, ARB approved the common area landscaping and privacy walls for the Phase 8-10 subdivision along both sides of Peet Road between Cochrane Road and Eagle View Drive. Phases 8 through 10 of the development received a total of 25 building allotments in the 2002 Measure "P" competition, including nine allotments for Fiscal Year 2004-05, eight allotments for Fiscal Year 2005-06, and eight allotments for Fiscal Year 2006-07. With completion of Phase 10, there will be a total of 162 units, with 16 below market rate units.

Final maps have been recorded and construction completed on Phases 1 through 6 of the project. Phase 7 consisting of six lots, has Final Map approval and is in the process of being constructed at the present time. The Tentative Map for Phases 8-10 as submitted, is in accordance with the RPD plan approved by the City Council in July 2002. The lot sizes and locations are each per the approved RPD. Upon completion, Phases 8-10 will have 25 units and will provide two BMR units. Although the total project area consists of 7.215 acres, the net buildable acreage is 6.191 acres after the dedication of public rights-of-way.

The Planning Commission considered this application at the regular meeting of December 2nd at which time the Commission voted 5-0 (Commissioners Engles and Weston were absent) approving the request. The Planning Commission resolution, conditions of approval, and subdivision map are attached for reference. The staff report and minutes for the subdivision are attached to the development agreement request within this same agenda.

FISCAL IMPACT: None. Filing fees were paid to the City for the costs of processing this application.

RESOLUTION NO. 03-93

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL APPROVING A 25 LOT SINGLE-FAMILY RESIDENTIAL SUBDIVISION ON A 7.215-ACRE PORTION OF TWO PARCELS LOCATED BETWEEN COCHRANE ROAD and EAGLE VIEW DRIVE ON PEET ROAD. (APNs 728-43-020 & 025)

WHEREAS, such request was considered by the Planning Commission at their special meeting of December 2, 2003, at which time the Planning Commission approved application SD-03-11: Cochrane-Coyote Estates; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

- **SECTION 1.** The approved project is consistent with the Zoning Ordinance and the General Plan.
- **SECTION 2.** An environmental initial study has been prepared for this project, and has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. A Mitigated Negative Declaration has been filed.
- **SECTION 3.** The proposed subdivision will not result in a violation of the requirements established by the Regional Water Quality Control Board.
- **SECTION 4.** The approved project shall be subject to the conditions as identified in the set of standard conditions attached hereto, as exhibit "A", and by this reference incorporated herein.

PASSED AND ADOPTED THIS 2nd DAY OF DECEMBER 2003, AT A SPECIAL MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN:	COMMISSIONERS:	
ABSENT:	COMMISSIONERS:	
ATTEST:		APPROVED:
FRANCES (Deputy City		JOSEPH H. MUELLER, Chair
		AFFIDAVIT
I, conditions sp	, applicar ecified in this resolution	at, hereby agree to accept and abide by the terms and.
		, applicant
		Date



CITY COUNCIL STAFF REPORT MEETING DATE: December 17, 2003

EXTENSION OF CONTRACT FOR CONSULTANT PLANNING SERVICES

RECOMMENDED ACTION(S):

Authorize the City Manager to execute an extension of the contract with Pacific Municipal Consultants (PMC) for contract planning services.

EXECUTIVE SUMMARY:

The Planning Division budget for FY 2003-2004 includes funding to continue the services of a contract planner to assist with processing of current development applications. The audit report prepared by MAXIMUS on the City's development processing services recommended the Planning Division continue to contract for this position to help expedite processing of applications for new developments. While the economy has slowed, the number of planning applications that are in process has remained relatively constant with the level of activity of a year ago. Continuation of the contract planner position is therefore needed to maintain current service levels. The contract planner is authorized to work a maximum of 20 hours per week.

On September 18, 2002, the City Council approved a contract with Pacific Municipal Consultants to provide planning services through January 31, 2003. On January 15, 2003, the City Council approved a contract extension through June 30, 2003. On June 4, 2003, the Council approved a further extension to December 30, 2003. Staff is recommending the contract with PMC be extended under the current terms for another six months through June 30, 2004. The attached exhibit describes the services provided by the contract planner.

FISCAL IMPACT:

The Planning Division budget includes an additional \$60,000 for contract labor under account number 41900 on page 195 of the adopted Fiscal Year 2003-04 budget. It is estimated that extension of the PMC contract through June 30, 2004 will not exceed this amount.

Agenda Item # 5
Prepared By:
Planning Manager
Approved By:
Community
Development Director
Submitted By:
City Manager



CITY COUNCIL STAFF REPORT MEETING DATE: December 17, 2003

Prepared By:

Agenda Item # 6

Community Services
Coordinator
Approved By:

Manager, Recreation & Community Services Submitted By:

City Manager

COMMUNITY PLAYHOUSE EVENT ATTENDANT FEE

RECOMMENDED ACTION:

Pass on the cost of an event attendant for the Playhouse for all rentals (excluding lease agreements and City use).

EXECUTIVE SUMMARY:

Playhouse rentals require staff to open the facility, monitor the event, and close the facility. During regular operating hours of the Community Center, staff is not always able to provide these functions due to the location of the Playhouse, conflicting staff responsibilities, and non-compatible hours of operation.

The current rental rates for the Playhouse do not sufficiently cover the cost of hiring an event attendant to perform these services. Staff proposes that the user cover the cost of an event attendant at a rate of \$20 per hour when the rental cannot be supported by the Community Center staff on duty. The \$20 per hour fee is the same applied for the Community Center users.

The proposed action will more accurately reflect the operating costs of the Playhouse and will provide for on-site staffing thereby improving customer service and facility safety.

FISCAL IMPACT:

The proposed Playhouse event attendant fee will incur a slight increase in expenses offset by an increase in revenue.



CITY COUNCIL STAFF REPORT CITY OF MORGAN HILL MEETING DATE: DECEMBER 17, 2003

AWARD OF PROFESSIONAL SERVICES CONTRACT FOR TRAFFIC SIGNAL DESIGN AT TENNANT AVENUE/ SOUTHBOUND HWY 101 OFF-RAMP INTERSECTION

Agenda Item #7 **Prepared By: Associate Engineer** Approved By: **Public Works Director Submitted By:** City Manager

RECOMMENDED ACTION(S):

- 1. Appropriate \$160,000 in additional funds from our unappropriated Traffic Impact Fund balance to this project for construction of pedestrian facilities, road widening and additional engineering.
- 2. Authorize the City Manager to execute a consultant agreement for design and preparation of plans, specifications and estimates with Pinnacle Traffic Engineering, subject to approval by the City Attorney.

EXECUTIVE SUMMARY: The original scope of work and budget for this project included only the installation of the traffic signal at the Tennant/Southbound 101 off-ramp for \$250,000. The signal is intended to mitigate the additional traffic volume anticipated for the Aquatics Center and the Harley Davidson dealership. After a detailed review of the project, staff recommends the installation of pedestrian facilities and road widening improvements to complete the project. If authorized by Council, the revised scope of work would include roadway widening and pedestrian improvements on the northern side of Tennant Avenue. The road improvements will provide an additional through lane for westbound traffic on Tennant Avenue and pedestrian improvements will provide access to the Aquatics Center along the northern side of Tennant Avenue, between Juan Hernandez Drive and Condit Road. Street lighting will also be installed on the northern side of Tennant Avenue across the overpass to provide the required illumination levels for pedestrians. No improvements to the southern side of Tennant are planned at this time due to the future widening of the overpass. It is estimated that the additional engineering and improvement cost will add \$160,000 to the cost of the project.

Since the intersection is a part of the Tennant Ave/101 Interchange and within Caltrans right-of-way, encroachment permits are required and a maintenance agreement will have to be negotiated with Caltrans, regardless of the scope changes. In addition, an agreement with PG&E will be required to obtain the necessary power to operate the signal and street lights.

Staff requested proposals from several qualified firms. Pinnacle Traffic Engineering submitted a proposal that was acceptable to staff and therefore, staff recommends approval of the attached proposal for a not to exceed amount of \$35,520.

Funds totaling \$250,000 are budgeted this fiscal year for New Signal FISCAL IMPACT: Construction (CIP #502093) from Traffic Impact Fund (309). Staff recommends that the additional amount of \$160,000 be appropriated from the un-appropriated Traffic Impact Fund (309) balance.



MEETING DATE: December 17, 2003

AQUATICS CENTER PROJECT – NOVEMBER CONSTRUCTION PROGRESS REPORT

RECOMMENDED ACTION(S): *Information Only*

EXECUTIVE SUMMARY:

Previous Council action awarded the contract for construction of the Aquatics Center Project to Gonsalves & Stronck Construction Company, Inc. At that time, staff informed Council that we would report monthly on the progress of the construction. Attached is the progress report for the month of November. This

Agenda Item # 8

Prepared By:

Project Manager

Approved By:

Public Works Director

Submitted By:

City Manager

report has been sent to our webmaster for posting on the City's website. The mechanical building construction has been delayed and is now the critical path activity. Currently, the mechanical building construction delay is seven days behind schedule. The pool construction remains on schedule. The contractor has a plan in place to recover the lost time during masonry and rough carpentry on the mechanical building. Barring unforeseen circumstances, including excessive rain days, construction completion is still scheduled for May 24th, 2004. The project is currently within budget.

FISCAL IMPACT: None



MEETING DATE: December 17, 2003

APPROVAL OF REIMBURSEMENT AGREEMENT WITH SOUTH COUNTY HOUSING (JASMINE SQUARE APARTMENT COMPLEX)

RECOMMENDED ACTION:

1. Approve an appropriation of \$155,684 from the current year unappropriated Traffic Impact Fee Fund balance for Monterey Road Median reimbursement.

Agend	a Item # 9
Prepar	ed By:
Assista	nnt Engineer
Appro	ved By:
Public	Works Director
Submi	tted By:
City M	 Ianager

2. Approve the attached Reimbursement Agreement and authorize the City Manager to sign the agreement on behalf of the City with South County Housing.

EXECUTIVE SUMMARY: South County Housing is developing a six building apartment complex with 72 total single-family and multi-family apartments, an office and laundry room for the complex, a day care center, a commercial office building, and a maintenance building between Monterey Road and Church Street at 16500 and 16510 Monterey Road (see attached location map). In addition to the standard off-site improvements, the developer was conditioned to construct a landscaped median and a water main which are outside the limits of standard off-site improvements.

The raised landscaped median on Monterey Road will be in conformance with the circulation element of the City's General Plan and is identified in the City's adopted traffic impact fee study. The water main consists of a 16" diameter pipe and appurtenances that will extend from the frontage of the Jasmine Square site southerly in Monterey Road to Cosmo Avenue and then run northerly along the site frontage, and run westerly across Monterey Road, terminating on the west side of Monterey Road. This 690 linear feet of water main is a part of the City's master plan of water improvements and will become a part of the primary supply and delivery line for the newly constructed Edmundson reservoir.

South County Housing is requesting that they be reimbursed by the City for all costs associated with the design and construction of the landscaped median and the 16" water main. The reimbursable cost for the median is \$141,531 and the reimbursable cost for the 16" water main is \$182,114. Therefore, the total reimbursement being requested is \$323,645. Staff also recommends that a 10% construction contingency be appropriated for all work described. Ten percent of the median work will amount to \$14,153 and for the water main will be \$18,211.

Staff recommends that Council approve the developer's reimbursement request.

FISCAL IMPACT: The \$155,684 cost for the median (reimbursement amount plus 10% contingency) will be funded with unappropriated traffic impact fee funds. The \$200,325 cost for the water main (reimbursement amount plus 10% contingency) is funded in the FY 2003/04 Capital Improvement Program (CIP) budget Project Number 619002, water fund.



MEETING DATE: December 17, 2003

ACCEPT AS COMPLETE THE 2002-03 PAVEMENT RESURFACING PROJECT

RECOMMENDED ACTION:

1. Accept as complete the construction of the 2002-03 Street Resurfacing and Reconstruction Project in the amount of \$750,961.05.

2.	Direct the City Clerk to file the attached Notice of Completion with the
	County Recorder's office.

3.	Authorize the carry over	into CIP Proje	ct #519096 the	e combined total	of \$229,471	from both th
Str	eet Fund and RDA Fund p	previously bud	geted but unsp	ent in FY 02-03		

EXECUTIVE SUMMARY: The contract for the 2002-03 Street Resurfacing Project was awarded to O'Grady Paving Inc. by Council at its June 25, 2003 meeting in the amount of \$788,982 including base bid and bid alternate work. Council also approved a 10% contingency resulting in a project budget of \$867,880.

This was a very successful project. Work included the asphalt overlay of Monterey Road from Dunne to the south city limits, local pavement failure removal and replacement, and crack sealing on Tennant Avenue Vineyard to Monterey, E. Main Avenue from Bolletto to 101, and on Diana Avenue Butterfield to Serene. All work has been completed in accordance with the plans and specifications.

The final project included one project change order in the amount of \$31,830 for adding crack sealing and local pavement failure removal and replacement on Diana Avenue, however even with the addition of this extra work, the project total cost was less than the awarded amount. This was due to final quantities of asphalt overlay being less than estimated and due to eliminating a portion of the asphalt overlay work on Monterey from Cosmo Avenue to the Post Office. This overlay work will be done following the construction of the Jasmine Square apartments on the east side of Monterey, south of the Post Office. The final project cost including one change order is \$750,961.05.

Also, the amount of \$229,471 (\$86,630 from fund 202 and \$142,841 from Fund 317) was budgeted in FY 02-03 for Pavement Rehabilitation work but was inadvertently omitted from the list of routine carryover funding authorized by Council action on September 24, 2003. Staff is asking Council to approve the carryover with this action.

FISCAL IMPACT: This project was funded as part of the 2002-03 Capital Improvement Program (CIP) Budget, Project #519096 with a total appropriation of \$1,467,000 of which the remaining balance is sufficient to fund this project.

Agenda Item # 10				
Pre	pared By:			
Dep Dir Public Works				
Apj	proved By:			
Puk	olic Works Director			
Cl	omitted By:			

City Manager

Record at the request of and when recorded mail to:

CITY OF MORGAN HILL CITY CLERK 17555 Peak Avenue Morgan Hill, CA 95037

RECORD AT NO FEE PURSUANT TO GOVERNMENT CODE SECTION 27383

NOTICE OF COMPLETION CITY OF MORGAN HILL

2002-2003 PAVEMENT RESURFACING PROJECT

NOTICE IS HEREBY GIVEN, pursuant to Section 3093 of the Civil Code of the State of California, that the Director of Public Works of the City of Morgan Hill, California, on July 28, 2003 did file with the City Clerk of said City, the contract for performing work which was heretofore awarded to O'Grady Paving Inc. on June 25, 2003, in accordance with the plans and specifications for said work filed with the City Clerk and approved by the City Council of said City.

That said improvements were substantially completed on December 1, 2003, accepted by the City Council on December 17, 2003, and that the name of the surety on the contractor's bond for labor and materials on said project is Travelers Casualty and Insurance Company.

That said improvements consisted of the construction and installation of all items of work provided to be done in said contract, all as more particularly described in the plans and specifications therefor approved by the City Council of said City.

Name and address of Owner: City of Morgan Hill 17555 Peak Avenue Morgan Hill, Californi

	M	organ Hill, California	
Dated: Decemb	per 17, 2003		
		Jim Ashcraft	, Director of Public Works
	I certify under pena	alty of perjury that the fo	oregoing is true and correct.
	Ir	ma Torrez, City Clerk	_
	C	ity of Morgan Hill, CA	
	D	ate:	



CITY COUNCIL STAFF REPORT **MEETING DATE:**

•	DECEMBER	<i>17</i> ,	2003

Agenda Item # 11		
Prepared By:		
Senior Engineer		

APPROVAL OF SUBDIVISION IMPROVEMENT AGREEMENT WITH DEWEY AND CAROLYN KOSICH (APN 764-32-024)

Public Works Director Submitted By:

City Manager

Approved By:

RECOMMENDED ACTION(S):

- Approve subdivision agreement and improvement plans
- 2) Authorize the City Manager to sign the Subdivision Improvement Agreement on behalf of the City
- 3) Authorize the recordation of the map and the Subdivision Improvement Agreement following recordation of the Development Improvement Agreement

EXECUTIVE SUMMARY: This is a 2 lot residential subdivision located at the end of Christeph Drive on Llagas Road (see attached location map). Subdivider has filed a Subdivision Map and supporting documents for the subdivision known as Lands of Kosich. The Tentative Subdivision Map was approved on December 13, 2000 by the City's Community Development Department. A condition of approval of the Parcel Map was that certain improvements be installed by the Subdivider as shown on the approved Subdivision Improvement Plans for assessor's parcel number 764-32-024.

The developer has furnished the City with the necessary documents to complete the processing of the Parcel Map and has made provision with the City to provide bonds guaranteeing the completion of public improvements prior to recordation of the Parcel Map. Staff recommends that City Council approve the Subdivision Improvement Agreement and authorize the City Manager to sign on behalf of the City.

The developer has furnished the City with the necessary documents to complete the processing of the Parcel Map and has made provision with a Title Company to provide the City with the required fees, insurance and bonds prior to recordation of the Parcel Map.

FISCAL IMPACT: Development review for this project is from development processing fees.



CITY COUNCIL STAFF REPORT MEETING DATE: December 17, 2003

APPROVAL OF CONTRACT FOR INTERIM MAINTENANCE SUPERVISOR

RECOMMENDED ACTION: Approve the attached agreement and authorize the City Manager to execute a contract to continue the contract services of an Interim Maintenance Supervisor.

Agenda Item # 12
Prepared By:
-
Dep Dir Public Works
Approved By:
Public Works Director
Submitted By:
City Manager
City Manager

EXECUTIVE SUMMARY: In May of 2003 Council approved a contract to

continue the services of Mr. Glenn Lyles in the position of Interim Maintenance Supervisor through December 31, 2003. This position is key to the Public Works Operations Division providing supervision of 13 full time position in the Parks and Streets functions. Mr. Lyles has been a valuable asset to the Parks and Streets maintenance effort over the past 6 months. Some of the key things he continues to manage are: Comprehensive maintenance programs for storm drain maintenance and weed abatement work, facilitate positive outcomes to personnel issues, budgeting execution, and establishment of work plans and a more proactive approach to maintenance.

At this time it is necessary to extend the agreement with Mr. Lyles through June 30, 2004 at an additional cost not to exceed \$27,000.

If this contract is approved, Mr. Lyles' services from now until June 30, 2003, will be funded by the Parks and Streets Operations Budget. Mr. Lyles works three days per week on average.

FISCAL IMPACT: Sufficient funding exists in the 2003-04 Parks and Streets Operations Budgets to fund these services.



CITY COUNCIL STAFF REPORT MEETING DATE: DECEMBER 17, 2003

LIBRARY COUNCIL SUB-COMMITTEE RECOMMENDATION REGARDING SUBMITTING GRANT FOR ROUND THREE OF THE STATE LIBRARY BOND GRANT PROGRAM

RECOMMENDED ACTION(S): To apply for round three of the State Library Bond Grant Program due January 16, 2004

Agenda Item # 13

Prepared By:

Manager, Recreation & Community Services

Submitted By:

City Manager

EXECUTIVE SUMMARY:

The Library Capital Project Council Sub-Committee consisting of Mayor Kennedy, and Council member Tate met with staff Julie Spier and Margarita Balagso to discuss the scope of work needed to update and improve the library building application to the State Library Bond Grant Committee. Realizing time is limited as the round three applications are due on January 16, 2004 the committee recommended that staff provide minimal corrections and rewrite for submittal. The committee noted that work would be required with the Morgan Hill Library staff to update the needs assessment as the applicable timeframe for that section (five years) has elapsed. The committee felt it was important to remain in the cycle application process due to the possibility of a future library building bond that would allocate a percentage of the funds to those projects submitted, but not funded, in round three.

The larger sub-committee including Library Commission Chair Jeanne Gregg, Commissioners Charles Cameron and George Nale, community member Carol Holzgrafe and Community Librarian Nancy Howe are meeting to discuss possible options to the current plan. The committee will be returning to Council with recommendations and suggestions on possible alternatives.

FISCAL IMPACT: There is an additional \$10,000 required to update the needs assessment and staff time to update and rewrite the application for submittal. These costs can be funded through the Capital Improvement Project fund for the Library project.



MEETING DATE: December 17, 2003

APPROVAL OF AGREEMENT WITH MORGAN HILL UNIFIED SCHOOL DISTRICT AND COUNTY OF SANTA CLARA FOR COOPERATION IN IMPROVEMENT OF BURNETT AVENUE

RECOMMENDED ACTION(S): Approve Agreement for Cooperation in Improvement of Burnett Avenue between City, School District, and County.

Agenda Item # 14 Prepared By: Helene Leichter City Attorney Submitted By: J. Edward Tewes City Manager

EXECUTIVE SUMMARY:

As part of the construction of Sobrato High School, the Morgan Hill Unified School District has to make improvements to Burnett Avenue, a public street partially within the jurisdiction of the County and partially within the jurisdiction of the City. Because the improvements are located in two jurisdictions, to avoid application of conflicting standards and to expedite the improvements, the agencies would like to have the improvements completed under the auspices of the City. This Agreement outlines that commitment, as well as processes for joint coordination of the work involved.

Under the Agreement, the County, with the exception of any encroachment permits necessary for the work, delegates the sole responsibility for the administration, review, approval and inspection of those portions of the improvements located within County jurisdiction to the City. Any fees and charges have to be paid for by the District, pursuant to agreement between the City and District and in accordance with established City fee schedules. With the exception of costs associated with any encroachment permits, the District will reimburse the County for any expenses reasonably incurred by the County in accomplishing this delegation of responsibility. The County also delegates responsibility to the City for maintenance of the improvements and for operation of street lights in those portions of the street that remain within County jurisdiction.

The City will be solely responsible for the review, approval and inspection of the landscaping, and for all maintenance costs associated with landscaped medians fronting the school, so long as those medians are improved with rock and concrete. In the event the medians are improved with landscaping, the District has to maintain the medians.

The District has to dedicate properties to the County or the City, as appropriate. The District also has to submit plans to the City for approval, and shall bear all associated construction costs. The District has to obtain any necessary encroachment permits from the County. The District also has to pay City for maintenance of the improvements and for operation of street lights in those portions of the street that remain within County jurisdiction, but this obligation stops when the area is annexed into the City.

FISCAL IMPACT: There has been staff time expended on the negotiation of the agreement, which has been absorbed into existing budgets. If the City maintains the medians, that will be an additional minor cost. The City will incur costs to review and approve the improvement plans, but the District has agreed to pay the City's actual costs (as opposed to the standard flat fee) for such work.



CITY COUNCIL STAFF REPORT MEETING DATE: December 17, 2003

MORGAN HILL POLICE FACILITY

RECOMMENDED ACTION(S):

Award construction contract to Stevelle Construction Company Incorporated in the amount of \$1,699,000 for the interior construction of the new Morgan Hill Police Facility, plus a \$114,000 Change Order contingency for a total price of \$1,813,000.

Agenda Item # 15				
Prepared By:				
(Staff Person))				
Approved By:				
(Department Head)				
Submitted By:				
City Manager				

EXECUTIVE SUMMARY: In July 2003, the City Council authorized the City Manager to execute the lease and purchase agreements, and architectural and construction management services agreements to lease, acquire and construct tenant improvements at 16200 Vinevard Boulevard. The tenant improvements (TI's) consist of new administration offices, records office, dispatch, detention cells, indoor parking, training room, interview rooms, gym & lockers. Attached is the floor plan for the TI's. The Nicholson Co. who is providing construction management for the project is at risk to deliver this project with a price guarantee not to exceed \$1.813 million (M).

The Contract Documents were issued for bid on November 20, with bids due on Dec. 8, 2003. Six bids were received, the breakdown was as follows:

Stevelle Construction	\$1,699,000.
W.E. Lyons Construction	\$1,722,000.
South Bay Construction	\$1,764,600.
Ken Wo Construction	\$1,820,000.
Falk Construction	\$1,950,000.
Tinney Construction	\$1,999,000.

The bids varied from low to high by \$300,000 or 15%. Review of the bids shows the apparent low bidder is Stevell Construction. The low bid is approximately 6 % under the price guarantee. References were checked and the low bidder was post qualified by the Construction management firm and staff. Staff is requesting authorization to approve Change Orders up to the price Guarantee of \$1.813M. This amount of \$114,000 is in effect the contingency for construction. If Council chooses to accept the award, construction should be complete in approximately five months.

FISCAL IMPACT:

The total project costs are estimated at \$9.45 M: \$6.4M for the purchase price, \$1.813M for tenant improvements, \$.4M for the professional services, and \$.837M for FF&E and soft cost contingency. The TI's are being funded by the sale of the library land from the City to the Agency and police impact fees. The purchase of the building will be funded with lease revenue bonds. The General Fund and police impact fees will bear the costs of repaying the bonds.



CITY COUNCIL STAFF REPORT MEETING DATE: DECEMBER 17, 2003

ART EXHIBIT POLICY FOR THE COMMUNITY AND CULTURAL CENTER

RECOMMENDED ACTION(S): Direct staff to implement the policies and art exhibition agreement as presented.

Agenda Item #16

Prepared By:

Manager, Recreation & Community Services

Submitted By:

City Manager

EXECUTIVE SUMMARY:

The Community and Cultural Center has been open for one year and the interest continues to grow in utilizing the hallways and supporting areas in the Center for art exhibits. Staff began discussions with the newly formed Morgan Hill Community Foundation in the interest of developing a volunteer committee to coordinate the call for entries and selection of artwork to display at the Center. The MHCF declined the offer at this time as they were not prepared to tackle this role while establishing the core direction for the Foundation.

Daryl Manning was then hired as a part-time, temporary, Arts Specialist to coordinate the proposed revolving art exhibits and to encourage and promote the use of the Community Center as an art venue. Experiencing successful outcomes with the recent "Evening of the Arts" event that included art displays, Daryl has moved forward coordinating with Silicon Valley Open Studios in May 2004 that will incorporate ten artists displaying their artwork in several areas of the Center. The positive impact will include county marketing avenues targeted to artists and cultural diversity opportunities in the continued development of the programming aspects of the Center. Please refer to attachment A.

Staff (Julie Spier, Jack Dilles, Daryl Manning and City Attorney Helene Leichter) met on November 21 to discuss the proposed art exhibit policy. The attached agreement (attachment B) addresses liability concerns and provides for a process to hang and display artwork. The process involves a Volunteer Art Committee who will determine subject matter for the shows and jury the submitted pieces. The City's Art Specialist will coordinate the show schedules, handle the artist receptions, and hang and remove the artwork pieces.

Council needs to be made aware that under the proposed agreement the City assumes the risk of the \$5,000 deductible in case art pieces are stolen or damaged and a claim is made unless the loss is due to the artist's acts or omissions. The agreement form will include appraised value(s) of the artwork.

FISCAL IMPACT: The Art Specialist has been hired through cost savings from not filling a position. The artist's reception will have to be self-funded.



CITY COUNCIL STAFF REPORT MEETING DATE: December 17, 2003

TITLE: THIRD AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF SHUTE, MIHALY & WEINBERGER, LLP

Agenda Item # 17
Prepared By:
(Title)
Approved By: (Department Director)
Submitted By:
City Manager

RECOMMENDED ACTIONS:

Authorize the City Manager to execute a Third Amendment to Agreement with the law firm of Shute, Mihaly & Weinberger, LLP.

EXECUTIVE SUMMARY:

On May 22, 2003, the City entered into a contract in the amount of \$10,000 with the law firm of Shute, Mihlay & Weinberger, LLP, to provide assistance with the City's Measure P update. This contract was amended on August 19, 2003, to increase the contract amount to \$20,000 and amended on September 25, 2003, to increase the contract amount to \$25,000. The current contract is insufficient to cover the fees and expenses necessary to finalize the initiative. Therefore, staff is recommending that Council approve the attached Third Amendment to Agreement increasing the contract amount to \$40,000. This amount should be sufficient to cover the anticipated fees and costs associated with the preparation and finalization of the Measure P update initiative.

FISCAL IMPACT:

The cost of this Third Amendment to Agreement can be accommodated in the City Attorney's Office budget. No additional appropriation is necessary at this time.



CITY COUNCIL STAFF REPORT MEETING DATE: DECEMBER 17, 2003

Agenda Item # 18	
Prepared By:	
Deputy City Clerk	_
City Clerk	
Approved By:	
City Attorney	_

Submitted By:

RESOLUTION AMENDING THE RECORDS
RETENTION SCHEDULE FOR CITY OF MORGAN
HILL

RECOMMENDED ACTION(S):

Motion to adopt Resolution amending the City's Record Retention Schedule.

EXECUTIVE SUMMARY: In January 1996, the City Council adopted Resolution No. 4967, a Records Retention Schedule. The resolution requires that the retention schedule be reviewed annually and updated when necessary. The Council Services and Records Manager coordinated a city-wide review of the Records Retention Schedule and is recommending some revisions to the Schedule in order to provide greater clarity and efficiency in the process of legal retention and destruction of records. Only the amended pages of the City of Morgan Hill Retention/Disposition Schedule are attached (Exhibit "A"). Items that have been added, deleted, or amended are highlighted in grayscale.

FISCAL IMPACT: The time preparing the staff report was accommodated by the City Clerk's operating budget and work plan.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE RECORDS RETENTION SCHEDULE FOR THE CITY OF MORGAN HILL

WHEREAS, it is necessary to provide a system for effectively managing the paperwork, audio and video tapes, and other miscellaneous items accumulated in the daily operations of the City of Morgan Hill; and

WHEREAS, Section 34090 of the Government Code of the State of California provides guidelines for destroying records that have served their purpose and are no longer required; and

WHEREAS, the City Council did, by the adoption of Resolution No. 4967 in January of 1996, and as amended by the adoption of Resolution No. 5137 on November 19, 1997, Resolution No. 5238 on December 16, 1998, Resolution No. 5347 on February 2, 2000, Resolution No. 5440 on December 6, 2000, Resolution No. 5535 on December 5, 2001, and Resolution No. 5628 on January 15, 2003, approve a Records Retention Schedule which standardizes the length of time records are kept, according to all applicable legal, fiscal, administrative and historic requirements; and

WHEREAS, pursuant to provisions outlined in Resolution No. 4967, the Records Retention Schedule has been reviewed and certain revisions are deemed necessary to provide for greater clarity and efficiency in the areas of retention and destruction.

NOW THEREFORE BE IT RESOLVED, that the City Council does hereby approve the amendment to a portion of the Records Retention Schedule, attached hereto and incorporated by reference as Exhibit A and directs the City Clerk to continue to review annually state and federal regulations and update the Records Retention Schedule as necessary.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 17th day of December, 2003 by the following vote.

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: COUNCIL MEMBERS:

₹ CERTIFICATION **₹**

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No., adopted by the City Council at the Regular Meeting on December 17, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

ATE:	
	Irma Torrez, City Clerk

BUSINESS ASSISTANCE AND HOUSING AMENDMENTS

HOUSING SERVICES

CDBG Rehabs	2	3	2 + 3 = 5	Working files.
CDBG Reimbursement/Banking Information	2	3	2 + 3 = 5	
Charitable Contribution Program	2	3	2 + 3 = 5	
Code Enforcement - Downtown	2	3	2 + 3 = 5	
Downtown Replacement Program	A/E + 2	5	A/E + 7	
Measure P	2	5	2 + 5 = 7	
RDA Administrative Files	2	5	2 + 5 = 7	U.S. Escrow Payments, Capital Projects, Correspondence, Deposits, Shared Housing, etc.
RDA Correspondence	2	3	2 + 3 = 5	
RDA Earthquake Documentation	2	5	2 + 5 = 7	
RDA Grantees	2	5	2 + 5 = 7	
RDA 20% Housing Set Aside Grants	2	5	2 + 5 = 7	
RDA Low/Moderate Program Administration	2	5	2 + 5 = 7	
RDA Rehab Loans	2	5	2 + 5 = 7	Working files.
RDA Loans	A/E	P	Р	

CITY CLERK AMENDMENTS

OFFICE GENERAL MANAGEMENT					<u>, </u>	
General Information	2	3	2 + 3 = 5			Review after 5 years.
Bid Opening Log (copy)	2	0	2			Original is retained by Respective Department
Bonds	3	Р	Р		Yes	
Census	12		12			Keep 1 Copy of Each Decade report. Historic value.
Complaints	2	0	2			
Non-City Legislation	1	0	1			
Oath of Office - Original	3	Р	Р			Original placed in Personnel file.
Oath of Office - Copy	3	0	3			Copy on file in City Clerk's office.
Policies/Procedures/Proclamations	С	2	2			Policies, Directives rendered by Council NOT assigned a Resolution or Ordinance Number.
Speaker Cards	С	120 days	120 days			
Special Events: Permits, General Information	£	2	C + 2	-	_	Transferred to Recreation Department, where oversight now occurs.
Statements of Economic Interest: Staff and Legislative Bodies	С	5	C + 5			Originals filed with Fair Political Practices Commission (FPPC)
Statements of Economic Interest: Staff and Legislative Bodies	С	7	C + 7			Originals filed with Fair Political Practices Commission (FPPC)
Tapes; Audio	С	5	C + 5			Tapes erased and re-used.
Tapes: Video	С	1 3	C+1 C +3			Tapes erased and re-used.

FIRE DEPARTMENT					
Alarm Reports	3	Р	Р		
Burn Permits	C + 2	0	C + 2		GC 34090
Code Books	С	Р	Р		
Daily Logs	1	Р	Р		
Dispatch Reports	1	Р	Р		
Equipment Maintenance Reports	2	3	2 + 3 = 5		GC 34090

COMMUNITY DEVELOPMENT DEPARTMENT AMENDMENTS

BUILDING						
Blueprint Plans - Commercial	С	Р	Р	Yes		
Blueprint Plans - Residential	С	Р	Р	Yes		Prior to December 1998, retention time is 6 months.
Blueprint Plans - City Owned Properties	С	Р	Р	Yes	Yes	
Building Permits & Applications	Р	0	Р	Yes	Yes	
Code Books: Building, Uniform Housing, Plumbing, Administrative, Mechanical, Abatement of Dangerous Buildings, Analysis of Revisions	С	Р	Р		Yes	
Earthquake Records	Р	0	Р	Yes		

City of Morgan Hill Resolution No. Page 5 – Exhibit A

Delete from Community Development. This is now Channel 17 under Charter Communications agreement on file with City Clerk.
Delete from Community Development. This is now Channel 17 under Charter Communications agreement on file with City Clerk.
_

PLANNING				
Annexations	С	Р	Р	Unapproved applications - destroy after 1 year
Architectural and Site Plan Reviews	С	Р	Р	Unapproved applications - destroy after 1 year
Certificate of Compliance	С	Р	Р	
Conceptual Plan Reviews	C + 1	0	C + 1	
Conditional Use Permits	C + 5	Р	Р	Unapproved applications - destroy after 1 year
County Referrals	C + 1	0	C + 1	

HUMAN RESOURCES AMENDMENTS

]					
PERSONNEL FILES				1		
Active Employees	С	0	С		Yes	
Terminated Employees	2	Р	Р		Yes	Review Active Files Annually
Active Volunteers	С	0	С		Yes	
Terminated Volunteers	0	5	5			Retain 5 years after end of volunteer service.
Police Personnel Background Packets - Not Hired	N/A	3	3			Transferred to HR from Police Department at 6 Months for incorporation into HR files for 3 years.
Police Personnel Background Packets - Hired	N/A	N/A	Р			Transferred to HR from Police Department at 6 Months for incorporation into HR permanent files.

POLICE DEPARTMENT AMENDMENTS

Police Personnel Background Packets - Not		6			Send to HR at 6 Months for incorporation into HR
Hired	С	Months	C + 6 Mo		permanent files. Files held for 3 years by HR.
Police Personnel Background Packets -					Send to HR at one year for incorporation into HR
Hired	1	0	1		permanent files.

PUBLIC WORKS DEPARTMENT AMENDMENTS

Assessment District - Fox Hollow/Murphy Springs Annual Files	1	5	1 + 5 = 6		
Assessment Districts - Passed	1	Р	Р		Includes original Assessment District Formation Documents.
			P 1 + 10		
Floods	1	P 10	= 11		

RECREATION AND COMMUNITY SERVICES DIVISION AMENDMENTS

Administrative Files	С	10	10		Capital Projects, Correspondence, Working files.
Client Event Folders	O	3	C + 3		Event Folders contain contract, pricing and insurance information for event.
Receipt Books	C	0	1		Receipts for Class sign-up and miscellaneous Recreation receipts.
Registration Forms	С	0	1		
Special Events: Permits, General Information	С	2	C + 2		Transferred to Recreation Department, where oversight now occurs.



CITY COUNCIL STAFF REPORT MEETING DATE: DECEMBER 17, 2003

ADOPT ORDINANCE NO. 1642, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA-03-05: DEWITT – MARRAD GROUP (APN: 773-08-015)

Agenda Item # 19
Prepared By:
Deputy City Clerk
Approved By:
City Clerk
Submitted By:
City Manager

RECOMMENDED ACTION(S):

<u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1642, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

EXECUTIVE SUMMARY:

On December 3, 2003, the City Council Introduced Ordinance No. 1642, New Series, by the Following Roll Call Vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

FISCAL IMPACT:

None. Filing fees were paid to the City to cover the cost of processing this application.

ORDINANCE NO. 1642, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA-03-05: DEWITT – MARRAD GROUP (APN 773-08-015)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 03-23, adopted April 22, 2003, has awarded allotments to a certain project herein after described as follows:

<u>Project</u> <u>Total Dwelling Units</u> MMP-03-02: DeWitt – Marrad Group 4 Single-Family Homes (3 allotments)

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

City of Morgan Hill Ordinance No. 1642, New Series Page 2

SECTION 8. Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 3rd Day of December 2003, and was finally adopted at a regular meeting of said Council on the 17th Day of December 2003, and said ordinance was duly passed and adopted in accordance with law by the following vote:

1	J	$\boldsymbol{\mathcal{E}}$
AYES:	COUNCIL MEMBERS:	
	COUNCIL MEMBERS:	
	COUNCIL MEMBERS:	
	COUNCIL MEMBERS:	
ATTEST:		APPROVED:
Irma Torrez	, City Clerk	Dennis Kennedy, Mayor
	∞ <u>CERTIFICATE</u>	OF THE CITY CLERK 03
CALIFORN 1642, New S	IA, do hereby certify that the f	ERK OF THE CITY OF MORGAN HILL foregoing is a true and correct copy of Ordinance No uncil of the City of Morgan Hill, California at their ember, 2003.
WIT	NESS MY HAND AND THE	SEAL OF THE CITY OF MORGAN HILL.
DATE:		
		IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT MEETING DATE: DECEMBER 17, 2003

	Agenda Item # 20
•	Prepared By:
	Deputy City Clerk
	Approved By:
7	
)	City Clerk
) T	Submitted By:
1	

City Manager

ADOPT ORDINANCE NO. 1643, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF **AMENDMENT APPROVING MORGAN** HILL AN TO **ORDINANCE** NO. 1618. **NEW** SERIES. TO AMEND DEVELOPMENT AGREEMENT DA-02-09 FOR APPLICATION MMP-02-02: DEWITT - MARQUEZ TO ALLOW FOR A THREE-MONTH EXTENSION OF TIME FOR FINAL MAP SUBMITTAL AND A SIX-MONTH EXTENSION OF TIME FOR **BUILDING PERMIT SUBMITTAL FOR FOUR (4) BUILDING**

ALLOTMENTS AWARDED IN THE 2002 RDCS COMPETITION (APN 773-08-014).

RECOMMENDED ACTION(S):

<u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1643, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

EXECUTIVE SUMMARY:

On December 3, 2003, the City Council Introduced Ordinance No. 1643, New Series, by the Following Roll Call Vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

FISCAL IMPACT:

None. Filing fees were paid to the City to cover the cost of processing this application.

ORDINANCE NO. 1643, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1618, NEW SERIES, TO AMEND DEVELOPMENT AGREEMENT DA-02-09 FOR APPLICATION MMP-02-02: DEWITT – MARQUEZ TO ALLOW FOR A THREE-MONTH EXTENSION OF TIME FOR FINAL MAP SUBMITTAL AND A SIX-MONTH EXTENSION OF TIME FOR BUILDING PERMIT SUBMITTAL FOR FOUR (4) BUILDING ALLOTMENTS AWARDED IN THE 2002 RDCS COMPETITION (APN 773-08-014).

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 02-37, adopted May 14, 2002, has awarded allotments to a certain project herein after described as follows:

<u>Project</u> <u>Total Dwelling Units</u> MMP-02-02: DeWitt – Marquez 5 single-family homes (4 allotments)

SECTION 4. The City Council hereby finds that the development agreement amendment approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 5. EXCEPTION TO LOSS OF BUILDING ALLOCATION. The project applicant has in a timely manner, submitted necessary planning applications to pursue development. The applicant is requesting to amend the approved development agreement approved under Ordinance No. 1618 to allow for a three-month extension of time for final map submittal and a six-month extension of time for building permit submittal for four (4) building allotments, due to delays not the result of developer inaction. Delays in project processing have occurred due to the extended period of time required to conduct the environmental analysis for the project. An Exception to Loss of Building Allocation is granted, extending the deadline for final map submittal to December 1, 2003, and extending the deadline for building permit submittal for the two (2) building allotments awarded for 2003-04 to January 15, 2004, and for the two (2) building allotments awarded for 2004-05 to January 15, 2005.

SECTION 6. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

City of Morgan Hill Ordinance No. 1643, New Series Page 2

SECTION 7. Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

SECTION 8. AMENDED DEVELOPMENT AGREEMENT. The amended development schedule, attached as Exhibit A, shall replace the schedule approved under Ordinance No. 1618.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 3rd Day of December 2003, and was finally adopted at a regular meeting of said Council on the 17th Day of December 2003, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: COUNCIL MEMBERS:

EXECUTE OF THE CITY CLERK 03

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1643, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 17th Day of December, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:	_	
	_	IRMA TORREZ, City Clerk

RECORD AT NO FEE PURSUANT TO GOVERNMENT CODE SECTION 6103

Recorded at the request of and when recorded mail to:

City of Morgan Hill Community Development Department 17555 Peak Avenue Morgan Hill, CA 95037

AMENDED RESIDENTIAL DEVELOPMENT AGREEMENT

This Agreement entered into this _____ day of ______, 2003, by and between JOHN MARQUEZ, under the Agreement, ("Property Owner") and the CITY OF MORGAN HILL, a municipal corporation organized and existing under the laws of the State of California (the "City").

RECITALS

This Agreement predicated upon the following facts:

- A. Government Code Sections 65864-65869.5 authorize the City of Morgan Hill to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property;
- B. Under Section 65865, the City of Morgan Hill has adopted rules and regulations establishing procedures and requirements for consideration of Development Agreements;
- C. The parties hereto desire to enter into a Development Agreement and proceedings have been taken in accordance with the City's rules and regulations;
- D. The City of Morgan Hill has found that the Development Agreement is consistent with the General Plan and commitments made through the Residential Development Control System of the City of Morgan Hill (Title 18, Chapter 18.78 of the Municipal Code);
- E. In light of the substantial commitments required to be made by Property Owner and in exchange for the consideration to be provided to the City by Property Owner as set forth herein, the City desires to give Property Owner assurance that Property Owner can proceed with the project subject to the existing official policies, rules and regulations for the term of this Development Agreement;

F. On May 21, 2003, the City Council of the City of Morgan Hill adopted Ordinance No. 1618, New Series approving the Development Agreement with the Property Owner, and the Ordinance thereafter took effect on June 21, 2003.

NOW, THEREFORE, the parties agree:

- 1. Definitions. In this Agreement, unless the context otherwise requires:
 - (a) "City" is the City of Morgan Hill.
- (b) "Project" is that portion of the development awarded building allotments as part of the Residential Development Control System by the City of Morgan Hill.
- (c) "Property Owner" means the party having a legal or equitable interest in the real property as described in paragraph 3 below and includes the Property Owner's successor in interest.
- (d) "Real Property" is the real property referred to in Paragraph 3 below.
- 2. <u>Exhibits</u>. The following documents are referred to in this Agreement, attached and made a part by this reference:

Exhibit "A" - Development Allotment Evaluation

Exhibit "B" - Development Review and Approval Schedule

Exhibit "C" - Legal Description of Real Property

In the event there is any conflict between this Development Agreement and any of the Exhibits referred to above, this Development Agreement shall be controlling and superseding.

- 3. <u>Description of Real Property</u>. The real property which is subject to this Agreement is described in Exhibit "C".
- 4. <u>Interest of Property Owner</u>. Property Owner represents that he has a legal or equitable interest in the real property.
- 5. <u>Assignment</u>. The right of the Property Owner under this agreement may not be transferred or assigned unless the written consent of the City is first obtained which consent shall not be unreasonably withheld. The Property Owner shall provide the City with names, address, and phone numbers of the party to whom the property is to be

transferred and Property Owner shall arrange an introductory meeting between the new owner, or his agent, and City Staff to facilitate consent of the City.

- 6. Recordation of Development Agreement. No later than ten (10) days after the City enters into this Agreement, the Clerk of the City shall record an executed copy of this Agreement in the Official Records of the County of Santa Clara. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, successors in interest to the parties to this Agreement; provided, however, that this Agreement shall not be binding upon any consumer, purchaser, transferee, devisee, assignee or any other successor of Property Owner acquiring a completed residential unit comprising all or part of the Project.
- 7. <u>Relationship of Parties</u>. Property Owner and the City agree that each is not the agent of the other for purposes of this Agreement or the performance hereunder, and Property Owner is an independent contractor of the City.
- 8. <u>City's Approval Proceedings for Project</u>. On May 14, 2002, the City of Morgan Hill approved a development plan for the real property as part of its Residential Control System Review. This approval is described in proceedings designated File No. MMP-02-02: Dewitt Marquez, on file in the office of Community Development to which reference is made for further particulars. The development plan provides for the development of the property as follows:
 - 1) Construction of two (2) units within fiscal year 2003-04 and two (2) units within fiscal year 2004-05, as approved by the City of Morgan Hill Planning Commission, and replacement of one existing home with one new home on the project site.

9. <u>Changes in Project</u>.

- (a) No substantial change, modification, revision or alteration may be made in the approved development plan without review and approval by those agencies of the City approving the plan in the first instance, which approval shall not be unreasonably withheld. No minor changes may be made in the approved development plan without review and approval by the Director of Community Development of the City, or similar representation if the Director is absent or the position is terminated, which approval shall not be unreasonably withheld.
- (b) Any change specified herein and approved by this Development Agreement shall be deemed to be an allowable and approved modification to the Development Plan.
- (c) In the event an application to change, modify, revise or alter, the development plan is presented to the Director of Community Development or applicable agencies of the City for review and approval, the schedule provided in Exhibit "B" shall

be extended for a reasonable period of time as agreed to by the parties hereto to accommodate the review and approval process for such application.

10. <u>Time for Construction and Completion of Project.</u>

- (a) <u>Securing Building Permits and Beginning Construction</u>. Unless excused from performance as provided in paragraph 27 hereof, Property Owner agrees to secure building permits by (see Exhibit "B") and to begin construction of the Project in accordance with the time requirements set forth in the Uniform Building Code and the City's Residential Development Control System (see Exhibit "B") as these exist on the date of execution of this Agreement. In the event Property Owner fails to comply with the above permit issuance and beginning construction dates, and satisfactory progress towards completion of the project in accordance with the Residential Development Control System, the City, after holding a properly noticed hearing, may rescind all or part of the allotments awarded to the Property Owner and award said allotments to the next Residential Development Control System applicant who has qualified for such allotments.
- (b) <u>Progress Reports Until Construction of Project is Complete.</u> Property Owner shall make reports to the progress of construction in such detail and at such time as the Community Development Director of the City of Morgan Hill reasonably requests.
- (c) <u>City of Morgan Hill to Receive Construction Contract Documents</u>. If the City reasonably requests copies of off-site and landscaping contracts or documents for purpose of determining the amount of any bond to secure performance under said contracts, Property Owner agrees to furnish such documents to the City and the City agrees to maintain the confidentiality of such documents and not disclose the nature or extent of such documents to any person or entity in conformance with the requirements of the California Public Records Act.
- Certificate of Completion. Within thirty (30) days after (d) completion to the City's satisfaction of 25% of the total number of units, the City shall provide Property Owners with an instrument in recordable form certifying completion of that portion of the project. Within thirty (30) days after completion to the City's satisfaction of 50% of the total number of units, the City shall provide Property Owners with an instrument in recordable form certifying completion of that portion of the project. Within thirty (30) days after completion to the City's satisfaction of 75% of the total number of units, and after all public and private improvements have been completed to the City's satisfaction, the City shall provide Property Owners with an instrument in recordable form certifying completion of that portion of the project. Within thirty (30) days after completion to the City's satisfaction of 100% of the total number of units, the City shall provide Property Owners with an instrument in recordable form certifying completion of the entire project. Upon issuance of the certificate of completion for 100% of the total units, this Development Agreement shall be deemed terminated as to the entire project.

11. <u>Hold Harmless</u>. Property Owner agrees to defend and hold the City and its officers, agents, employees and representatives harmless from liability for damage or claims for damage for personal injury including death or claims for property damage which may arise as a result of the construction of the project by the Property Owner or his contractor, subcontractor, agent, employee or other person acting within the course and scope of the authority of Property Owner.

Property Owner further agrees to hold the City and its officers, agents, employees, and representatives harmless from liability for damages or claims for damages suffered or alleged to have been suffered as a result of the preparation, supply, and/or approval of the plans and specifications for the project by the City or its officers, agents, employees or representatives.

Nothing herein shall require or obligate Property Owner to defend or hold the City and/or its officers, agents, employees and representatives harmless from or against any damages, claims, injuries, death or liability resulting from negligent or fraudulent acts of the City or its officers, agents, employees or representatives.

- 12. <u>Insurance</u>. Property Owner shall not commence actual construction under this Agreement until Property Owner has obtained insurance as described herein and received the approval of the City Attorney of Morgan Hill as to form and carrier, which approval shall not be unreasonably withheld. Property Owner agrees to maintain such insurance from a date beginning with the actual commencement of construction of the Project and ending with the termination of the Agreement as defined in Paragraph 20.
- (a) <u>Compensation Insurance</u>. Property Owner shall maintain Worker's Compensation Insurance for all persons employed by Property Owner at the site of the Project, not including the contractor and or subcontractors on the site. Property Owner shall require each contractor and subcontractor similarly to provide Worker's Compensation Insurance for themselves and their respective employees. Property Owner agrees to indemnify the City for damage resulting from its failure to obtain and maintain such insurance and/or to require each contractor or subcontractor to provide such insurance as stated herein.
- (b) <u>Public Liability and Property Damage Insurance</u>. Property Owner agrees to carry and maintain public liability insurance against claims for bodily injury, death or property damage to afford protection in the combined single limit of not less than One Million Dollars (\$1,000,000).
- (c) <u>Additional Insured</u>. Property Owner shall obtain an additional insured endorsement to the Property Owner's public liability and property damage insurance policy naming the City, its elective and appointive boards, commissions, agents, and employees, as additional insured.

- 13. <u>Cancellation of Insurance</u>. On or before the commencement of actual construction of the Project, Property Owner shall furnish the City satisfactory evidence that the insurance carrier selected by the Property Owner and approved by the City will give the City of Morgan Hill at least ten (10) days prior written notice of cancellation or reduction in coverage of a policy.
- 14. <u>Specific Restrictions on Development of Real Property</u>. Notwithstanding the provisions of land use regulations otherwise applicable to the real property by virtue of its land use designation of Single-family Medium and zoning classification of R-1 (12000)/RPD, the following specific conditions of the Residential Development Control System building allotment approval govern the use of the property and control over provisions in conflict with them, whether lots are developed by the Property Owner or by subsequent property owners:
 - (a) Permitted uses of the property are limited to the following:

Those shown on the Tentative Map, Grading Plans and Precise Residential Development Plans, as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.

(b) Maximum density (intensity of use) is:

That shown on the Vesting Tentative Map, Grading Plans and Precise Residential Development Plan as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.

(c) Maximum height for each proposed building is:

That height shown on the Architectural Plans as approved by the City of Morgan Hill under Site and Architectural Review Process.

- (d) Landscaping and recreational amenities, as shown on Site, Architectural, Landscape and Grading Plans as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.
- (e) All public improvements shall be installed by the Property Owner along property frontages to the satisfaction of the Public Works Department consistent with the Site, Architectural, Landscape and Grading Plans as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.
- (f) All architectural features and materials for all structures shall be constructed as shown on the Architectural Plans as approved by the Site and Architectural Review Process.

- (g) Property Owner agrees to any other reasonable condition of approval resulting from subdivision, site review and environmental review, which conditions are on file with the City.
- (h) Property Owner agrees to include the following <u>safety</u> features in the development:
 - (i) Escape ladders shall be provided in all upper floor bedrooms.
 - (ii) Each home shall be provided with two (2) mounted fire extinguishers.
 - (iii) Each home shall be equipped with fire sprinklers throughout.
 - (iv) The applicant shall provide outdoor lighting to meet all police department specifications.
 - (v) The applicant shall install illuminated or self-luminous address numbering for each unit and painted curb numbers, where possible.
 - (vi) All homes shall have an alarm system.
 - (vii) All units shall have stucco and stone exteriors.
 - (viii) All homes shall be equipped with fire sprinklers NFPA 13D systems.
- (i) Property owner agrees to include the following <u>Open Space</u> features and improvements in the development:
 - (i) The total building coverage shall not exceed 24.6 percent or 0.326 acres of the net site area.
 - (j) Property Owner agrees to include the following School features:
 - (i) The applicant agrees to pay the district-adopted developer fees as provided by the Leroy F. Greene School Facilities Act of 1998.
 - (ii) The applicant shall provide handicap ramps at intersections of Alkire and De Witt Avenues and Dunne Avenue and DeWitt Avenue or any other improvement deemed worthy by the MHUSD at a cost of \$1000/unit.
 - (iii) Any other improvement deemed worthy by the MHUSD at a cost of \$2000/unit making the total contributions \$3000/unit.
- (k) Property Owner agrees to purchase double the transferable development credits (TDC's) subject to this development potential transfer mechanism, with each phase. Should purchase of the TDC's prove infeasible, Property Owner may, at City's option, pay an in-lieu open space fee in an amount satisfactory to the City Council. Proof of unsuccessful negotiation for the TDC's must be presented to the City with the

request of the in-lieu fee option. Building permits will not be granted unless this provision has been complied with to the satisfaction of the City Council.

- (l) Property Owner agrees to include the following <u>affordable housing</u> features in the development:
 - (i) The applicant shall pay double the standard housing mitigation fees, in accordance with the approved Measure "P" Project Evaluation, prior to the issuance of the first two building permits.
- (m) Property Owner agrees to include the following <u>construction</u> features in the development:
 - (i) The development shall include five (5) lots, three (3) floor plans and five (5) elevations.
 - (ii) The project will use vinyl framed windows w/EPA "Energy Star" labels per item B2.ai. All homes will use high efficiency gas furnaces.
 - (iii) All homes will have zoned high efficiency heating systems (2) for homes o/3000 sq. ft. & dual zoning for each level @ homes less than 3000 sq. ft.
 - (iv) A/C units shall be used with a "seer" rating of 12 or higher (typ. @ all homes).
 - (v) All homes shall be equipped with recirculating hot water systems with demand pumping.
 - (vi) All homes shall have cast iron drainage pipe. All homes to have home running phone lines from all habitable rooms directly to main phone box using RJ6 for TV/Video & CAT 5R (or equal) for telephone lines.
 - (vii) All homes shall have Class "A" concrete roof tile (Class "B" min. required per code) All subfloors to be glued and screwed (nailing only is required. TJI floor joists to be used on each floor framing. (Sawn lumber is acceptable per UBC) All homes to be preplumbed for gas to dryer along with 220V outlet. All external walls to be wrapped with min. of 3/8" CDX plywd. sheating.
 - (ix) Roof lines used will be hips, gables, dutch gables and high "dormers" to create roof articulation for each elevation.
 - (x) Project is next to "The Oaks" to the north and shall incorporate roof slopes and use of stone, brick and stucco from "The Oaks" and hips and gabled roofs from "The Oaks" and the custom homes to the west.
 - (xi) On all homes, second story shall comprise less than 50 percent of first story footprint. Roof lines break up two-story elements on sides and rear elevations. Bay windows,

cantilevered areas and varying wall planes shall be used to create architectural relief on all four sides of homes.

(n) The Property Owner agrees to provide the following <u>Public</u> Facilities:

- (i) The project shall meet all standards for design of public facilities.
- (ii) The applicant shall install public facilities of sufficient size to serve the proposed development and future developments without the need to install supplemental facilities.
- (iii) The drainage concept shall be consistent with the City's Storm Drain system.
- (iv) The storm drains to be maintained by the City shall all be under pavement in Price Drive street extension.
- (v) The applicant shall pay \$1000/unit into offsite storm drain fund.
- (vi) The applicant shall contribute \$1000 per unit to the Capital Improvements Program Fund.
- (o) The Property Owner agrees to provide the following <u>Park and</u> Recreation improvements:
 - (i) The applicant shall pay triple the required park fees.
- (p) The eight-inch water main in DeWitt Avenue shall be gridded to the eight-inch main in John Telfer Drive.
- (q) The Property Owner shall record constructive notice for the development that the requirements of this Development Agreement, and that commitments under the Agreement which the City has permitted the Property Owner to delay must be fulfilled by the next subsequent property owners.
- (r) The project shall provide the following information, by address for each unit, to the Community Development Department:
 - (i) Date of sale
 - (ii) The number of bedrooms
 - (iii) The final sales price

This information shall be reported on an annual basis for the calendar year and is due to the City by March 30 of the following year for every year until the project is completed and all units are sold.

15. Effect of Agreement on Land Use Regulations.

- (a) Unless otherwise provided herein or by the provisions of the Residential Development Control System, the rules, regulations and official policies governing permitted uses of the real property, governing density and governing the design, improvement and construction standards and specifications applicable to development of the real property are those rules, regulations and official policies, including without limitation building code requirements, in force at the time of the execution of this Agreement.
- (b) This Agreement does not prevent the City, in subsequent actions applicable to the real property, from applying new rules, regulations and policies which do not conflict with those rules, regulations and policies applicable to the real property as set forth in Paragraph 14 and in effect at the time of the execution of this Agreement. Any rules, regulations or policies enacted by the City subsequent to the execution of this Agreement which are in conflict with those rules, regulations and policies in effect at the time of the execution of this Agreement or in conflict with the terms of this Agreement shall not be applied to the Project.
- (c) The City shall be entitled to impose development fees in effect at the time a vested tentative map or other equivalent map is approved, rather than those in effect as of the date of this Agreement. The City shall be entitled to apply building standards in effect at the time the building permits are actually issued, rather than those in effect as of the date of this Agreement.
- (d) This Agreement does not prevent the City from denying or conditionally approving any subsequent development project application on the basis of such existing or new rules, regulations and policies.
- (e) Nothing contained herein will give Property Owner a vested right to develop the described Project or to obtain a sewer connection for said Project in the absence of sewer capacity available to the Project.
- 16. <u>State or Federal Law.</u> In the event that state or federal laws, or regulation, enacted after this Agreement have been entered into, prevent or preclude compliance with one or more provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

17. Periodic Review.

(a) The City shall review this Agreement at least four times per year and on a schedule to assure compliance with the Residential Development Control System, at which time the Property Owner is required to demonstrate good faith compliance with the terms of this Agreement.

- (b) If, as a result of such periodic review, the City finds and determines, on the basis of substantial evidence, that Property Owner has not complied in good faith with the terms or conditions of this Agreement, the City may rescind all or part of the allotments awarded to Property Owner and award said allotments to the next Residential Development Control System applicant who has qualified for such allotments.
- 18. <u>Amendment or cancellation of Agreement</u>. This Agreement may be amended, or canceled in whole or in part, by mutual consent of the parties and in the manner provided for in California Government Code Section 65868, 65867 and 65867.5.
- 19. <u>Enforcement</u>. Unless amended or canceled pursuant to Paragraph 18 hereof, this Agreement shall be enforceable by any party to it notwithstanding any change in any applicable general or specific plan, zoning, subdivision, or building regulation adopted by the City, which alters or amends the rules, regulations or policies specified in Paragraphs 14 and 15.
- 20. <u>Termination of Agreement</u>. This Agreement shall terminate upon the occurrence of one or more of the following events or conditions:
- (a) The City finds and determines, in accordance with the terms of Paragraph 17, that Property Owner has not reasonably complied in good faith with the terms of this Agreement and the City elects to terminate this Agreement;
- (b) Property Owner gives the City written notice of its decision to terminate this Agreement;
- (c) Property Owner and the City mutually consent to termination of this Agreement in accordance with the terms of Paragraph 18; or
- (d) Issuance of the Certificate of Completion referred to in Paragraph 10(d), provided that this Agreement shall only terminate with respect to that part of the Project to which the Certificate of Completion applies.
- 21. <u>Default by Property Owner</u>. Property Owner shall be in default under this Agreement upon the occurrence of one or more of the following events or conditions:
- (a) If a written warranty, representation or statement was made or furnished by Property Owner to the City with respect to this Agreement which was known or should have been known to be false in any material respect when it was initially made;
- (b) A finding and determination by the City of Morgan Hill made following a periodic review under the procedure provided for in Government Code Section 65856.1 that upon the basis of substantial evidence, the Property Owner has not

complied in good faith with one or more of the material terms or conditions of this Agreement.

- 22. <u>Default by the City of Morgan Hill</u>. The City is in default under this Agreement upon the occurrence of one or more of the following events or conditions:
- (a) The City, or its boards, commissions, agencies, agents or employees, unreasonably fails or refuses to take action on proposals, applications or submittal presented by the Property Owner within a reasonable time after receipt of such proposals, applications or submittal.
- (b) The City unreasonably fails or refuses to perform any obligation owed by it under this Agreement.
- (c) The City imposes upon Property Owner rules, regulations or official policies governing permitted uses, density, maximum height and size of proposed structures and reservations (dedications) of land for public purposes of the Property or the design, improvement and construction standards and specifications applicable to the development of the Property, which are not the same in all material respects as those rules, regulations and official policies in effect at the time of the execution of this Development Agreement and which adversely and materially affect the Project.

23. Cure of Default.

- (a) This section shall govern cure of defaults except to the extent to which it may be in conflict with the Residential Development Control System. Upon the occurrence of an event of default by either party, the party not in default (the "non-defaulting party") shall give the party in default (the "defaulting party") written notice of the default. The defaulting party shall have thirty (30) calendar days from the date of notice (subject to subsection (b) below) to cure the default if such default is curable within thirty (30) days. If such default is so cured, then the parties need not take any further action except that the defaulting party may require the non-defaulting party to give written notice that the default has been adequately cured.
- (b) Should the default not be cured within thirty (30) calendar days from the date of notice, or should the default be of a nature which cannot be reasonably cured within such thirty (30) day period and the defaulting party has failed to commence within said thirty (30) day period and thereafter diligently prosecute the cure, the non-defaulting party may then take any legal or equitable action to enforce its rights under this Development Agreement.

24. Remedies.

(a) In the event Property Owner defaults under the terms of this Agreement, the City, after holding a properly noticed hearing may rescind all or part of the allotments awarded to Property Owner and award said allotments to the next Residential Development Control System applicant who has qualified for such allotments or may terminate or modify this Development Agreement.

- (b) In the event the City defaults under the terms of this Agreement, in no event shall the Property Owner be entitled to any of the following:
 - (i) Punitive damages;
 - (ii) Damages for lost profits;
 - (iii) Damages for expenditures or costs incurred to the date of this Agreement.
- (c) The parties hereby explicitly acknowledge and agree that remedies for any issue or dispute arising out of the performance or non-performance of this Agreement are limited to those provided under actions for mandamus, declaratory relief and/or specific performance. The parties further agree that in no event shall any party shall maintain any action, claim or prayer for damages pursuant to any alleged federal or state constitutional or statutory claim, or incurred as a result of an alleged breach of this Agreement.
- 25. <u>Attorneys Fees and Costs.</u> If legal action by either party is brought because of breach of this Agreement or to enforce a provision of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs.
- 26. <u>Notices</u>. All notices required or provided for under this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid addressed as follows:

City of Morgan Hill: Community Development Department

City of Morgan Hill 17555 Peak Avenue Morgan Hill, CA 95037

With a copy to: City Clerk

City of Morgan Hill 17555 Peak Avenue Morgan Hill, CA 95037

Property Owner: John Marquez

Marrad Group P.O. Box 1767

Morgan Hill, CA 95038

A party may change the address shown above by giving notice in writing to the other party and thereafter notices shall be addressed and transmitted to the new address.

27. <u>Force Majeure</u>. Either party hereto, acting in good faith, shall be excused from performing any obligations or undertakings provided in this Agreement in the event and for so long as the performance of any such obligation is prevented, delayed, retarded or hindered by an act of God, fire, earthquake, floods, explosion, actions of the elements, war, invasion, insurrection, riot, mob violence, strikes, lockouts, eminent domain,

inability to obtain labor or materials or reasonable substitutes therefore, non City governmental restrictions, regulations or controls, including revisions to capacity ratings of the wastewater plant by the Regional Water Quality Control Board, the State Water Resources Board, or any court action or judicial orders; unreasonable delays in processing applications or obtaining approvals, consent or permits, filing of legal actions, or any other cause, not within the reasonable control of such party. Active negligence of either party, its officers, employees or agents shall not excuse performance.

28. Rules of Construction and Miscellaneous Terms.

- (a) The singular includes the plural; the masculine gender includes the feminine; "shall" is mandatory; "may" is permissive.
- (b) If a part of this Agreement is held to be invalid, the remainder of the Agreement is not affected.
- (c) This writing contains in full, the final and exclusive Agreement between the parties.
- (d) The time limits set forth in this Agreement may be extended by mutual consent of the parties.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto on the day and year first above written.

APPROVED AS TO FORM:	CITY OF MORGAN HILL
HELENE LEICHTER, City Attorney	J. EDWARD TEWES, City Manager
	Attest:
	IRMA TORREZ, City Clerk
	PROPERTY OWNER
	JOHN MARQUEZ

(ALL SIGNATURES, EXCEPT CITY CLERK AND CITY ATTORNEY, MUST BE ACKNOWLEDGED BY A NOTARY)

EXHIBIT "A"

DEVELOPMENT ALLOTMENT EVALUATION

MMP-02-02: Dewitt - Marquez

(See Entire Documents on File in the Community Development Department - City Hall) CITY OF MORGAN HILL

AMENDED EXHIBIT "B"

FY 2003-04 (2 allotments), FY 2004-05 (2 allotments) DEVELOPMENT SCHEDULE MMP-02-02: Dewitt – Marquez Subdivision

I.	SUBDIVISION AND ZONING APPLICATIONS Applications filed:	10-08-02
II.	SITE REVIEW APPLICATION Application filed:	11-20-02
III.	FINAL MAP SUBMITTAL Map, Improvements Agreement and Bonds:	12-01-03
IV.	BUILDING PERMIT SUBMITTAL FY 2003-04 Submit plans to Building Division for plan check: FY 2004-05 Submit plans to Building Division for plan check:	1-15-04 1-15-05
V.	BUILDING PERMITS FY 2003-04 Obtain Building Permits: FY 2004-05 Obtain Building Permits:	3-31-04 3-31-05
VI.	COMMENCE CONSTRUCTION FY 2003-04 Commence Construction: FY 2004-05 Commence Construction:	6-30-04 6-30-05

Failure to obtain building permits and commence construction by the dates listed above, shall result in the loss of building allocations. Submitting a Building Permit application three (3) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least two (2) dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

EXHIBIT "C"

LEGAL DESCRIPTION MMP-02-02: Dewitt - Marquez

The land referred to herein is situated in the State of California, County of Santa Clara, City of Morgan Hill and is described as follows:

All that certain real property situated in the City of Morgan Hill, County of Santa Clara, State of California, described as follows:

(City of Morgan Hill)

That portion of Lot 89, Catherine Dunne Ranch Map No. 3, as shown on a Map recorded in Book H, Page 65 of Maps, Records of Santa Clara County, California.

Beginning at a point in the centerline of DeWitt Avenue, distant thereon North 2° 57' West 315.412 feet from the point of intersection of the centerline of DeWitt Avenue, with the dividing line between lots 88 and 89 of the Catherine Dunne Ranch Map No. 3, as recorded in the office of the County Recorder of the County of Santa Clara in Book "H" of Maps, Page 65, Records of said County; thence running North 2° 57' West and along the centerline of said DeWitt avenue 157.706 feet; thence running at right angles South 87° 0.3' West 552.4 feet to a point on the Westerly line of that certain 9.45 acre tract of land conveyed by Angelo Capitolo and Sulina Capitolo, his wife, to R.H. Henckens by Deed dated March 21, 1931 and recorded March 27, 1931 in the office of the County Recorder of the County of Santa Clara, State of California in Liber 562 of Official Records, Page 276, Records of said County; thence running South 2° 57' East and along the Westerly line of said 9.45 acre tract of land, 157.706 feet; thence running at right angles North 87° 03' East 552.4 feet to the point of beginning.

Assessor's Parcel Number: 773-08-014

Submitted for Approval: December 17, 2003

CITY OF MORGAN HILL SPECIAL CITY COUNCIL MEETING MINUTES – DECEMBER 5, 2003

CALL TO ORDER

Mayor Pro Tempore Chang called the special meeting to order at 4:50 p.m.

ROLL CALL ATTENDANCE

Present: Council Members, Chang, Sellers, and Tate

Arriving Late: Mayor Kennedy (arrived at 4:59 p.m.), and Council Member Carr (arrived at 4:55 p.m.)

DECLARATION OF POSTING OF AGENDA

Deputy City Clerk Malone certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

City Council Action

OTHER BUSINESS:

1. <u>UPDATE OF THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (MEASURE P)</u>

City Attorney Leichter reviewed the issues for the City Council, explaining that the ballot measure question defined in Resolution No. 5736, 5738, and 5739, adopted on November 19, 2003, was found to contain more words than allowed by the Santa Clara County Registrar of Voters. The ballot question had to be reduced to 75 words. She indicated that staff had reduced the ballot question to 75 words, and the purpose of this special meeting was for the Council to review and adopt the new wording contained in Resolution No. 5740 and 5741, amending the previously approved resolutions.

Director of Community Development Bischoff clarified the differences in the two versions of the ballot question, Version A and Version B, being presented to the Council for consideration.

After Council discussion, the consensus was that the wording should be further amended to strike the words "..., and comply with state legal requirements"; and following "a population ceiling of 48,000" to add the words "for the year 2020".

Action:

On a motion by Council Member Sellers and seconded by Council Member Carr, the Council unanimously (4-0, with Kennedy absent) <u>Adopted</u>, with amendments, version B of Resolution No. 5740, calling for the election, and Resolution No. 5741, setting priorities for written arguments.

Council discussion continued regarding the submittal of input from Council members for the ballot arguments being prepared by Council Members Tate and Carr. Comments from those with further input

City of Morgan Hill City Council Meeting Minutes – December 5, 2003 Page - 2 -

will be provided to Council Member Tate and Council Member Carr for their consideration regarding incorporation into the final document at their discretion. Council members will be asked to review and sign the final document, and submit it to the City Clerk by Tuesday, December 9, 2003, for submittal to the Registrar's office.

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

ADJOURNMENT

There being no further business, Mayor Kennedy adjourned the meeting at 5:17 p.m.

EMERGENCY MEETING CONVENED

Mayor Kennedy convened an emergency meeting at 5:18 p.m. due to an urgent issue brought to the attention of the Council at that time regarding a State budget legislative issue.

City Council members placed a conference call to Senator McPherson's office to request that Senator McPherson include a provision in the State's \$15 billion dollar loan proposal to insure that Vehicle License Fees be backfilled to the cities and counties.

ADJOURNMENT

There being no further business, Mayor Kennedy adjourned the meeting at 5:21 p.m.

MOIRA MALON	E, DEPUTY CITY CLERK	

MINUTES RECORDED AND PREPARED BY:



REDEVELOPMENT AGENCY STAFF REPORT

MEETING DATE: December 17, 2003

NOVEMBER 2003 FINANCE & INVESTMENT REPORT

Agenda Item #22 Prepared By: Finance Director Submitted By:

Executive director

RECOMMENDED ACTION:

Accept and File Report

EXECUTIVE SUMMARY: Attached is the monthly Finance and Investment Report of the Redevelopment Agency of the City of Morgan Hill for the month of November 2003. The report covers activity for the first five months of the 2003/2004 fiscal year. A summary of the report is included on the first page for the Board's benefit.

The Redevelopment Agency monthly Finance and Investment Report is presented to the Agency Board and our Citizens as part of our ongoing commitment to improve and maintain public trust through communication of our finances, budget and investments. The report also serves to provide the information necessary to determine the adequacy/stability of financial projections and develop equitable resource/revenue allocation procedures.

This report covers all fiscal activity of the Redevelopment Agency.

FISCAL IMPACT: As presented.

REDEVELOPMENT AGENCY OF THE CITY OF MORGAN HILL

Monthly Financial and Investment Reports

November 30, 2003 – 42% Year Complete



Prepared by:

FINANCE DEPARTMENT



REDEVELOPMENT AGENCY OF THE CITY OF MORGAN HILL, CALIFORNIA

FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2003/04 FOR THE MONTH OF NOVEMBER 2003 - 42% OF YEAR COMPLETE

Revenues

Through November 30, the Redevelopment Agency received \$1,783,331 in property tax increment revenues. Most property tax increment revenues are received between December and April. The Redevelopment Agency, as of November 30, 2003, has collected \$100,000,000 in tax increment revenue under the original plan and has collected \$57,807,552, net of pass-through obligations to other agencies, toward the plan amendment cap of \$147,000,000. Since the \$100 million tax increment cap for the original plan was reached during 1999/2000, all tax increment revenues collected during 2003/2004 were collected under the plan amendment.

An amount of \$145,639 in interest earnings has been received through November. Additional interest earnings for October and November have not been included and will be posted with earnings for the quarter ending December in January. Other revenues represent charges for services and total \$21,504.

Expenditures

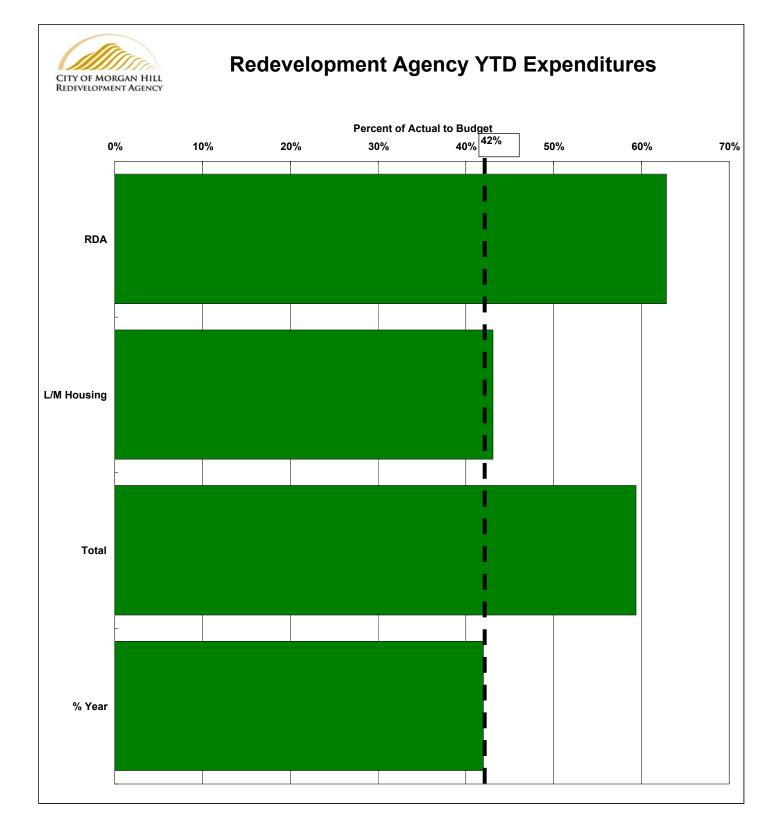
Total Redevelopment Agency Capital Projects expenditures and encumbrances equaled \$25,125,159 and were 63% of budget. Of this total, \$10,878,257 represented encumbrances for capital projects and other commitments. If the encumbrances were excluded, the RDA would have spent only 36% of the budget. Expenditures for administrative costs for employee services, supplies, and contract services were 37% of budget. During July, the Agency made a \$2.55 million installment payment towards the purchase of the Sports Complex property. During July, the Agency also spent approximately \$3.5 million for the purchase of the Courthouse Facility property. Through November, the Agency has incurred \$3.1 million in acquisition and construction costs related to the Butterfield Blvd. Phase IV Project and has incurred \$2.5 million in costs associated with the construction of the Aquatics Complex. All Capital Projects expenditures during 2003/04 have used monies collected under the plan amendment.

Budgeted expenditures plus encumbrances for Housing were at 43% of the budget for a total of \$3,679,738. During July, the Agency paid approximately \$3 million for the purchase of the Royal Court Apartments. Although certain loans and grants for various housing loan and grant programs have been committed, the related funds have not been drawn down by the recipients and, hence, are not reflected in the expenditures. All of the 2003/04 housing related expenditures has been funded with tax increment collected under the plan amendment.

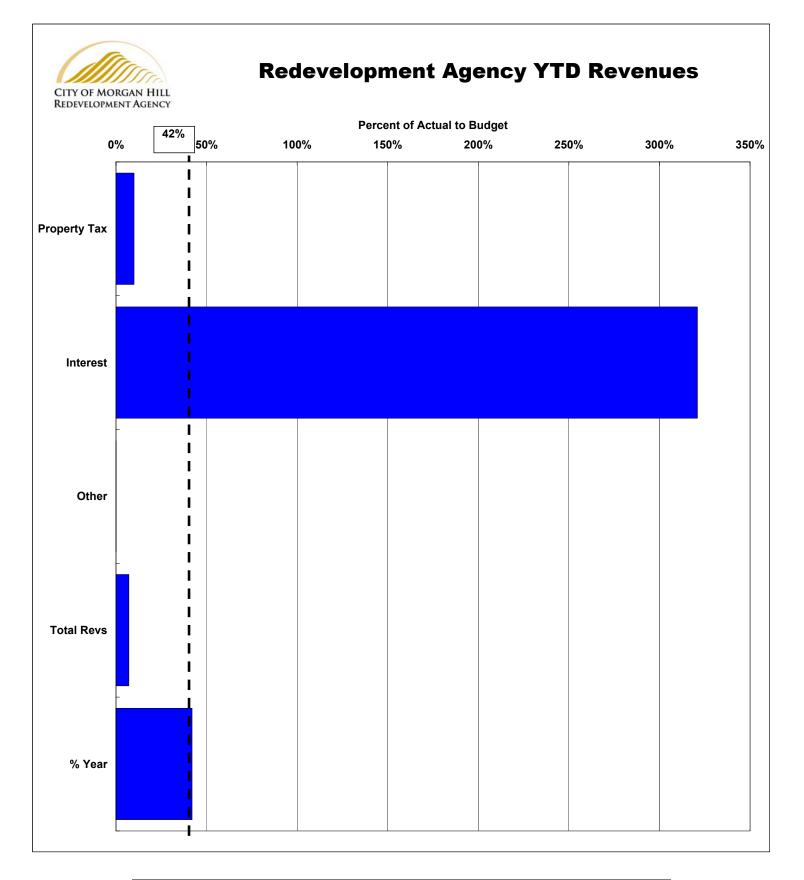
Fund Balance

The unreserved negative fund balance of (\$5,026,837) for the Capital Projects Fund at November 30, 2003, reflected the large amount of current contract encumbrances, not yet expended, and consisted entirely of monies collected under the plan amendment. The unreserved fund balance included future obligations to pay an additional \$3.6 million for the Courthouse Facility, an additional \$3,250,000 for purchase of the Gunderson property, and \$1.61 million for the Lomanto property should the Agency agree to execute its option to purchase in accordance with the agreement. If all these future commitments are subtracted from the (\$5,026,837), the remaining unreserved fund balance at November 30 would be a negative (\$13,486,837). However, these commitments are expected to be paid out over the next 2 to 3 years. Staff will bring a short-term borrowing plan to the Board in the near future to finance the 2003/04 cash flow needs, as provided for in the current 2003/04 budget. The Capital Projects Fund cash balance at November 30 was \$5,868,392.

The unreserved fund balance of \$2,991,639 for the Housing Fund at November 30 consisted of funds all collected under the plan amendment.



Expenditure Category	Budget	Actual Plus Encumbrances	% of Budget
CAPITAL PROJECTS	\$39,964,615	\$25,125,159	63%
HOUSING	8,538,767	3,679,738	43%
TOTALS	\$48,503,382	\$28,804,897	59%



			% OF	PRIOR YEAR	% CHANGE FROM
REVENUE CATEGORY	BUDGET	ACTUAL	BUDGET	TO DATE	PRIOR YEAR
PROPERTY TAXES	\$17,877,658	\$1,783,331	10%	\$1,636,273	9%
INTEREST INCOME/RENTS	\$45,364	\$145,639	321%	\$184,259	-21%
OTHER REVENUE	\$23,536,663	\$21,504	0%	\$4,089	426%
TOTALS	\$27,373,112	\$1,950,474	7%	\$1,824,621	7%



Redevelopment Agency Fund Balance Report - Fiscal Year 2003/04 For the Month of November 2003 42% of Year Complete

		Unaudited	Revenue	s	Expenditu	res	Year to-Date	Ending Fu	nd Balance	Cash and In	vestments
Fund		Fund Balance	YTD	% of	YTD	% of	Deficit or				
No.	Fund	06-30-03	Actual	Budget	Actual	Budget	Carryover	Reserved ¹	Unreserved	Unrestricted	Restricted
317	CAPITAL PROJECTS	\$20,860,548	1,508,903	6%	14,246,902	36%	(12,737,999)	13,149,386	(5,026,837)	5,868,392	
	HOUSING	\$24,240,428	441,571	12%	3,595,559	42%	(3,153,988)	18,094,800	\$2,991,639		
3211320	HOOSING	\$24,240,420	441,371	12 70	3,393,339	4270	(3,133,900)	10,094,000	\$2,991,039	3,061,303	
TOTAL C	APITAL PROJECT FUNDS	\$45,100,976	1,950,474	7%	17,842,461	37%	(15,891,987)	31,244,186	(2,035,198)	8,949,757	
TOTAL	AITIAET NOSECTTONES	940,100,370	1,330,474	1 /0	17,042,401	<u>37 /0</u>	(13,031,307)	31,244,100	(2,033,130)	0,343,737	
SUMMAR	Y BY FUND TYPE										
O O III III II II I	TO TOND THE										
	CAPITAL PROJECTS GROUP	\$45,100,976	1,950,474	7%	17,842,461	37%	(15,891,987)	31,244,186	(2,035,198)	8,949,757	
						l l	,		, , , , , , ,		
	TOTAL ALL GROUPS	\$45,100,976	1,950,474	<u>7%</u>	17,842,461	<u>37%</u>	(15,891,987)	31,244,186	(2,035,198)	8,949,757	
	TOTAL CASH AND INVESTMENTS									8,949,757	

¹ Amount reserved for encumbrances, fixed asset replacement, long-term receivables



Redevelopment Agency Year to Date Revenues - Fiscal Year 2003/04 For the Month of November 2003 42% of Year Complete

FUND REVENUE SOURCE	ADOPTED BUDGET	AMENDED BUDGETED	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCREASE (DECREASE) FROM PRIOR YTD	% CHANGE
CAPITAL PROJECTS FUNDS							
317 CAPITAL PROJECTS							
Property Taxes & Supplemental Roll Development Agreements	14,086,573	14,086,573	1,394,397	10% n/a	1,308,381	86,016 -	7% n/a
Interest Income, Rents Other Agencies/Current Charges	9,450,000	23,536,573	93,787 20,719	n/a <u>0%</u> _	136,529 3,549	(42,742) 17,170	-31% <u>484%</u>
TOTAL CAPITAL PROJECTS	23,536,573	23,536,573	1,508,903	<u>6%</u>	1,448,459	60,444	<u>4%</u>
327/328 HOUSING							
Property Taxes & Supplemental Roll Interest Income, Rent Other	3,791,085 45,364 <u>90</u>	3,791,085 45,364 90	388,934 51,852 785	114%	327,892 47,730 540	61,042 4,122 245	19% 9% <u>45%</u>
TOTAL HOUSING	3,836,539	3,836,539	441,571	<u>12%</u>	376,162	65,409	<u>17%</u>
TOTAL CAPITAL PROJECTS FUNDS	27,373,112	27,373,112	1,950,474	7%	1,824,621	125,853	7%



Redevelopment Agency Year to Date Expenditures - Fiscal Year 2003/04 For the Month of November 2003 42% of Year Complete

FUND NO.	FUND/ACTIVITY	THIS MONTH ACTUAL EXPENDITURES	ADOPTED BUDGET	AMENDED BUDGET	YTD EXPENDITURES	OUTSTANDING ENCUMBRANCES	TOTAL ALLOCATED	% OF TOTAL TO BUDGET
317 CAI	PITAL PROJECTS							
	BAHS Administration BAHS Economic Developme BAHS CIP	98,789 11,801 2,349,599	1,509,317 4,516,120 21,320,714	1,598,923 8,204,443 30,161,249	522,643 3,490,275 10,233,984	69,396 242,428 10,566,433	592,039 3,732,703 20,800,417	37% 45% <u>69%</u>
тот	AL CAPITAL PROJECTS	2,460,189	27,346,151	39,964,615	14,246,902	10,878,257	25,125,159	<u>63%</u>
327 ANI	D 328 HOUSING							
	Housing	115,970	4,592,332	8,538,767	3,595,559	84,179	3,679,738	<u>43%</u>
TO	TAL HOUSING	115,970	4,592,332	8,538,767	3,595,559	84,179	3,679,738	<u>43%</u>
TOTAL	CAPITAL PROJECT FUND	2,576,159	31,938,483	48,503,382	17,842,461	10,962,436	28,804,897	59%

Redevelopment Agency of the City of Morgan Hill Balance Sheet Report - Fiscal Year 2003/04 For the Month of November 2003 42% of Year Complete

	CAPITAL PROJECTS (Fund 317)	Housing (Fund 327/328)
ASSETS	,	,
Cash and investments:		
Unrestricted	5,868,392	3,081,365
Accounts Receivable	3,200	7,806
Loans and Notes Receivable ¹	3,343,914	24,296,876
Louis and Notos Nossivable	0,040,514	24,230,070
Advance to Other Funds		
Fixed Assets ²	71,049	
Other Assets		
Total Assets	9,286,555	27,386,047
LIABILITIES		
LIABILITIES		
Accounts Payable and Accrued Liabilities	20,180	13,353
Deferred Revenue ³	1,143,834	6,286,256
Accrued Vacation and Comp Time		
Total liabilities	1,164,014	6,299,609
FUND BALANCE		
Fund Balance		
Reserved for:		
Encumbrances	10,878,257	84,179
Advance to Other Funds	10,070,207	04,175
Properties Held for Resale	71,049	
Loans and Notes Receivable	2,200,080	18,010,621
Total Reserved Fund balance	13,149,386	18,094,800
Unreserved Fund Balance	(5,026,845)	2,991,638
Total Fund Balance	8,122,541	21,086,438
Total Liabilities and Fund Balance	9,286,555	27,386,047

¹ Includes Housing Rehab loans and loans for several housing and Agency projects.

² Includes RDA properties held for resale.

³ Includes the deferred payment portion of the loans noted above.



REDEVELOPMENT AGENCY STAFF REPORT

MEETING DATE: December 17, 2003

DOWNTOWN REQUEST FOR CONCEPTS

RECOMMENDED ACTION(S): Accept Status Report **EXECUTIVE SUMMARY:**

In July 2003, the Agency received 25 responses to the Downtown Request for Concepts. Twenty-three remain since two were rejected because they were received after the deadline. In October, the Agency approved dividing the responses into two major categories: "Quick Hitters" and "Information Gathering". The Quick Hitters were further divided into three sub-groups: 1) projects which would dropout if they could not be addressed through existing

Prepared By:

BAHS Analyst
Approved By:

BAHS Director
Submitted By:

Executive Director

Agenda Item # 23

programs and/or nominal assistance from the Agency; 2) projects that would move to the Information Gathering category if not addressed with existing programs and/or nominal Agency assistance; and, 3) those that require more City research and may evolve into City financed infrastructure projects. Attached is a table indicating the current status of each concept proposal.

Group 1 contains five of the 14 proposals assigned to the Quick Hitter Category. The DiSalvo-Art Guild proposal was approved by the Agency/City Council and the project is well underway. The Morgan Hill Downtown Association (MHDA) is submitting a revised plan for the Banner Program. Upon review of this plan, the Council ED Subcommittee will recommend an Agency loan to MHDA to be repaid from banner revenues. The two housing concepts (Kruger and Azar) have been given until January 9th to review their requests in terms of programs available. The MHDA was requested to coordinate its downtown public relations and marketing efforts with the Chamber of Commerce.

Group 2 has seven concepts. Hubbard and Enderson are in escrow, and cannot proceed until that process is completed. Buffington/Scoffone originally indicated that receiving funds beyond the façade program would enhance their project. However, they have reconsidered their position and will be requesting funds for their project. Meduri also has indicated that their proposal is more extensive than originally anticipated. Both have been given until January 9th to provide clarifying information. Staff will continue to work with Associated Concrete to find a new site and determine if Agency assistance is required. We anticipate that most of these proposals will move into the Information Gathering category. Dasovic will be kept informed of the process and Henken is deciding how to proceed.

Group 3 has two concepts from MHDA and El Toro Brewery proposing infrastructure improvements as discussed in the downtown plan. These proposals will require further City research and may be addressed as elements of future City infrastructure projects.

All nine of the initial Information Gathering proposers have been interviewed and given until January 9th to submit additional information. This information will help us prepare a "short list" of projects to proceed in the RFP process. We expect to bring the recommendations for both quick hitters and information gathering proposals to you in late January for consideration.

Initially, our goal was to bring these recommendations to the Agency for consideration in December. However, given the number of proposals and amount of information to be collected, we were unable to meet a December timeframe.

FISCAL IMPACT: None at this time.



REDEVELOPMENT AGENCY/CITY COUNCIL STAFF REPORT

MEETING DATE: December 17, 2003

AGREEMENTS WITH JOHNSON LUMBER

RECOMMENDED ACTION(S): Authorize the City Manager/Executive Director to do everything necessary and appropriate to execute and implement the agreements with Johnson Lumber, including making modifications to the agreement subject to City Attorney/General Counsel review and approval, for a loan of \$230,000 to be repaid from sales tax revenue generated by the project.

Agenda Item # 24
Approved By:
DAHC D'andar
BAHS Director
Submitted By:
Executive Director

EXECUTIVE SUMMARY: At the October 22, 2003 Redevelopment Agency meeting, the Agency directed the Executive Director to negotiate and prepare the necessary agreements with Johnson Lumber to provide for: 1) a \$230,000 loan which will be repaid from sales tax revenue based on performance, 2) a double façade grant, and 3) the commitment to install any required sound wall/fence along the future extension of Butterfield Blvd. The Agency had also requested that the agreements be structured to provide Johnson Lumber an incentive to pay off the loan sooner than ten years.

The loan structure will require Johnson Lumber to have agreements with both the City and Agency:

- The Agency will have a loan agreement. The loan will be secured against the property.
- The City will have an agreement to share sales tax based on Johnson Lumber meeting performance thresholds.

However, staff and the ED subcommittee were unable to develop a structure to provide for an incentive for an early pay-off of the loan. The difficulty lies in the fact that the loan is repaid from sales tax revenue generated from the project and not by Johnson Lumber unless there is an outstanding balance in year ten. The agreement is already incentive laden to the extent that the more Johnson Lumber generates in sales tax revenues the sooner the loan gets repaid.

Attached for your reference is the staff report from October 22, 2003. The staff report details the loan terms and performance thresholds. The key terms of the agreements are as follows:

- The Agency will make an interest free loan of \$230,000 to Johnson Lumber. The loan will be deferred for ten years and repaid from sales tax rebates up to a maximum amount of \$230,000.
- Johnson Lumber must repay any outstanding balance due the Agency at the end of the loan term.
- Johnson Lumber will be responsible for installing landscaping along Butterfield Blvd. when it is extended to Watsonville Road. The City/Agency will be responsible for the installation, if required, of a wall/fence in the landscaped area.
- Johnson Lumber must meet certain performance standards in order to receive a sales tax "rebate." These rebates will not be paid directly to Johnson Lumber, but rather will be credited against the outstanding loan balance.

The proposed assistance package will allow Johnson Lumber to continue with their development plans to double the size of their current retail operations.

FISCAL IMPACT: Sufficient funds exist in the BAHS ED program budget (Fund 317). The City will collect less sales tax revenue, but this is revenue that it would not have received if Johnson Lumber did not expand its operations.

Submitted for Approval: December 17, 2003

CITY OF MORGAN HILL JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES – DECEMBER 3, 2003

CALL TO ORDER

Mayor/Chairman Kennedy called the special meeting to order at 6:00 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Chang, Sellers, Tate and Mayor/Chairman Kennedy

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954 2

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

City Attorney announced the below listed closed session item, indicating that one of the items listed under Close Session 1 is attributed to a threat of litigation via a November 23, 2003 e-mail from Judith Berkman to Council Member Greg Sellers.

1

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Government Code Sections 54956.9(b) & (c) Number of Potential Cases:

2.

EXISTING LITIGATION

Government Code section 54956.9(a)

California Court of Appeal, First Appellate District

Case Name: Santa Teresa Citizen Action Group, City of Morgan Hill, et al. v. Hearing Board of the Bay Area

Quality Management District, et al. Case Number: A102518

3.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Legal Authority Government Code 54957

Public Employee Performance Evaluation: City Attorney

Attendees: City Council, City Attorney

City of Morgan Hill Joint Special & Regular City Council and Special Redevelopment Agency Meeting Minutes – December 3, 2003 Page - 2 –

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chairman Kennedy opened the Closed Session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor/Chairman Kennedy adjourned the meeting to Closed Session at 6:03 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 7:00 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Leichter announced that the Council approved entering into a joint prosecution defense confidentiality agreement between the City of Morgan Hill, City of Gilroy, County of Santa Clara and the Santa Water Valley Water District.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

Mayor/Chairman Kennedy led the Pledge of Allegiance.

CITY COUNCIL REPORT

Council Member Carr reported on the following:

<u>City-School Liaison Committee</u>: This Committee meets on a monthly basis, alternating meeting locations between the City of Morgan Hill and School District Offices. It has been decided to meet at school sites to experience first hand traffic concerns and other school issues. At the last meeting, the Committee discussed traffic issues, safe routes to school, and the idea of joint planning of facilities. He said that the City has needs for facilities that it is looking to build, including the continued need to figure out how to build a new library in Morgan Hill. The School District also has facility needs. At the last meeting, the Committee decided that it would jointly recommend to its respective agencies that an ad hoc joint planning committee be put together to look at these issues to come up with recommendations and possible ways to partner. It was his belief that at an upcoming Council meeting, the Council's representatives to the City-School Liaison committee would be bringing back a formal report on a recommendation to establish this ad hoc joint planning committee for Council consideration. School Board member representatives would be taking this same recommendation to the School District.

City of Morgan Hill Joint Special & Regular City Council and Special Redevelopment Agency Meeting Minutes – December 3, 2003 Page - 3 –

<u>Commission on tax policy</u>: He reported that he was appointed by former Governor Gray Davis to serve on Commission that looked at a tax policy for the State of California. Reviewed was how a tax policy would relate to the economy we are in today, and possible recommendations that can be made on tax and fiscal policy at the state level. He indicated that this group has concluded its two-year work and that sometime this month; the Commission's report will be issued with copies being made available to everyone, including being posted on a website in the near future.

Council Member Tate said that at the November 19 Council meeting, the Council appointed him and Mayor Kennedy to a Library subcommittee to study what is going on with the library on a fast track. He said that the Committee met last week and will be meeting again tomorrow morning. He said that it was determined that there would be a couple of parallel tracks. Track A being the preparation of an application to submit for the third round of library bond funding. He indicated that this would return to the Council on December 17, 2003 for formal action. He stated that staff understands that this may be the direction the Council will be taking and that they are taking the appropriate steps to prepare for this. Track B is looking at alternatives, assuming the City will not receive State bond funds. He said that the Library subcommittee will be reviewing these alternatives when it meets tomorrow morning and goes through a site evaluation and funding. He stated that the Library agreed that it would seek stronger Council financial commitment to whatever recommendation would come from the meeting. indicated that there is a third effort in parallel in terms of documenting the entire situation. He said that there appears to be quite a bit of confusion in the community about the difference between building a new facility and the operation of a facility. He noted that a library parcel tax has been in place for approximately nine years and that it helps pay for the operations of a library (21% of the total budget of the library). He indicated that this parcel tax expires next year. He stated that the Library Joint Powers Authority met today and agreed to place a ballot measure to extend the library parcel tax to fund the operations of the library on the March 2, 2004 election. He indicated that the parcel tax pays for the hours the library is kept open, books, and the maintenance of the library where the funding of a new library facility is strictly for building the new library facility. He stated that the Library subcommittee will be preparing a lot of documentation in response to questions that have been raised in the community. The City Manager passed along some of the research he has been doing on the library and that this information would help answer questions in terms of the history of the library facility in Morgan Hill and the RDA's involvement. This would help to have a simple approach to document where the library/City is and where it is going. He indicated that the library subcommittee will report as it moves forward.

Mayor Kennedy reported on the Urban Limit Line/Greenbelt Committee, indicating that several meetings have been held with another meeting scheduled for the upcoming Monday at the Community Center at 7:00 p.m. He indicated that this Committee is drawing an ultimate limit line and establishing a green belt around the City. He felt that the Committee was making a fair amount of progress, drawing a line around approximately 75% of the City. He indicated that the Committee has come across a difficult issue on the southeast quadrant. He said that the southeast quadrant has farmland and that is an issue of what to do with in terms of how the City should implement a greenbelt in this location if the City continues the process. He indicated that the Committee is wrestling with some very tough issues and that they will be discussing the urban limit line and greenbelt principles at the next meeting. They will also follow up on implementation issues raised that the City can insure is put into place once an urban

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limit line and greenbelt is established. He stated that the committee intends to present its report to the Council sometime in February 2004. However, a progress report will be presented to the entire Council prior to this date.

CITY MANAGER REPORT

City Manager Tewes reported on what is/is not taking place in Sacramento and how it impacts Morgan Hill seriously. He said that the City has held workshops about the City's budget from time to time. He said that approximately six months ago, the Council adopted the general fund budget that pays for public safety such as e.g., police and fire, recreation, parks/street maintenance services, and the general purposes of City government. When the Council did so, staff predicted that the City would need approximately \$16 million in revenue and that this would fall short by approximately \$400,000 of what the City needs to maintain the level of services that the Council and the community have come to expect. He indicated that the budget predicted that the City would need to dip into its reserve by approximately \$400,000. He stated that the last couple of months, he has come to the Council with worsening news about the state of the City's revenues. He said that the City's sale tax that was predicted to be flat declined significantly and that the transient occupancy tax declined as well. Since the Council adopted the budget, the legislature and Governor approved a State budget that did not fully finance the payments to cities and counties for the vehicle license fee (VLF). Staff anticipated that the City would loose three months of the "backfill" license fee. When staff reported this to the Council a couple of months ago, it turned out that instead of dipping into the cities reserves by approximately \$400,000, the City might have to dip further into the reserves for \$900,000. He reported that this week the legislature and the Governor are trying to work out a package to balance the State budget. There is a concern that the legislature may leave the special session at the end of week without having addressed the need to appropriate monies to backfill cities and counties for vital public safety services. If this happens, it would not be three months loss of VLF but an additional nine months which would result in the loss of another \$1 million. He stated that the City's reserves would be further depleted if this happens. He informed the Council that staff would be advising the legislature and the Governor of the absolute serious situation the City would be facing if it does not have the resources promised and pledged.

CITY ATTORNEY REPORT

City Attorney Leichter stated that she did not have a report to present this evening.

OTHER REPORTS

None.

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the floor to public comment for items not appearing on this evening's agenda.

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Joan Ensign, co-president of the Morgan Hill Branch of the American Association of University Women (AAUW), stated that she was in attendance this evening with co-president Carol O'Hare and board members who represent the 121 members of this branch. She stated that AAUW supports a new library as promoting education is AAUW's primary mission. She noted that the current library is inadequate for a community of Morgan Hill's size to accomplish this mission. She requested that the Council reconsider its priority and give Morgan Hill citizens the library it thought it was getting when the Redevelopment Agency passed; one the community deserves.

Beverly Williams, President of the Friends of the Morgan Hill Library, stated that she is in support of a new library. She moved to Morgan Hill in order to become more involved in the community and have a sense of a better lifestyle. She stated that she has found this in Morgan Hill. She said that she has been amazed at the interaction between the library, business and the community. Considering how hard many individuals have been working toward getting a new library, she felt that they are getting tired and upset of being pushed aside as a new library that meets the community's needs is over due.

Phyllis McLaughlin, retired Morgan Hill librarian, read into the record a letter she submitted to the Morgan Hill Times about building a new library. The letter states that Morgan Hill needs a new library as it is needed to serve the current population and provide technological resources. She indicated that in 1981, the City of Morgan Hill established a Redevelopment Agency (RDA) that covered most of the land within the city limits at that time. Since 1982, part of the property taxes that would normally go to the Morgan Hill library has been diverted to the City's RDA. She noted that the original RDA was set up to collect \$100 million in tax increments. In 1990, as this limit was approached, the City began a campaign to extend the RDA and collect another \$150 million. She indicated that the voters of Morgan Hill rejected the first and second attempts to extend the RDA. In order to get the RDA extension passed, the City implemented a visioning process whereby the residents of Morgan Hill would let the City know what facilities they want built with RDA funds. When the visioning process was completed, a new library was one of the highest rated projects. She said that the next time the RDA extension was on the ballot, it passed as most library supporters felt that a new library would be assured. She noted that many of the projects rated high by the visioning process have been built or are in the process of being built. She said that most of the money to be collected by the RDA has been committed to various projects. She indicated that the City Council/RDA has repeatedly stated that there is not enough money to build everything identified in the visioning process. She stated that the RDA allotted \$5.4 million for the new library with the hope that the remainder of the \$20 million would come from a state grant. She said that the City, in conjunction with the library, has now spent thousands of dollars and many man hours to apply for state funding twice. She stated that many communities have a greater need than Morgan Hill, noting that Morgan Hill has a source of funding for a new library; the RDA. There is now a third and final round of applications for State bond money. She indicated that the Council has decided to apply once again for state monies. The Library Commission has recommended against trying for the third round of State funding as a third application would involve reworking the application and completing a new needs assessment costing thousands more in tax payer dollars. Going through the third round of bond funding and learning the results would result in all of the remaining money of the RDA's \$150 million being committed to other projects; resulting in nothing being left to build a new library. She said that for reasons of fairness and practicality, she did not believe that this should happen. She stated that in over 20-years of the RDA, the library has lost millions of dollars and will continue to do so into

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the future. She felt that the recreational facilities built, under construction or in the planning stages are worthy projects providing for the recreation of Morgan Hill citizens. However, she argued that the library provides not only for recreational needs but for the education of the community. She indicated that the regulations of the RDA do not allow this money to be used for on going operations. The City of Morgan Hill would have to dip into its general fund to pay for operational expenses not covered by fees from other RDA projects. She noted that the library would not cost the City a cent. She urged the Council to build the library now as it is needed. She said that many library patrons still believe that a new library will be built and have no idea that the library has been relegated to the bottom of the list and that the City has made no provisions to fund it if the money from the state bond issue does not come through.

No further comments were offered.

Mayor Kennedy announced the grand opening celebration of the Butterfield extension from San Pedro to Tennant Avenues to take place on Wednesday, December 10, 2003 at 9:30 a.m.

City Council Action

CONSENT CALENDAR:

Mayor Kennedy requested that item 3 be removed from the Consent Calendar.

Action: On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) Approved Consent Calendar Items 1, 2 and 4-9, as follows:

1. RESOLUTION DECLARING INTENT OF CITY COUNCIL TO REIMBURSE ITSELF FOR CERTAIN WATER CAPITAL PROJECT COSTS WITH REVENUE BONDS Action: Adopted Resolution No. 5742, Declaring Official Intent on Behalf of the City Pursuant

to Section 1.150-2 of the Treasury Regulations.

2. LAFCO FIRE PROTECTION SERVICE REVIEW

<u>Action: Directed</u> Staff to Submit Written Comments on the Report Agreeing with the Report's Suggestions for Regional Solutions and to Participate in the Public Meetings.

4. <u>EMERGENCY AUTHORIZATION FOR GUARD RAIL REPLACEMENT AT WATSONVILLE BOX CULVERT NEAR MONTEREY ROAD</u>

<u>Action:</u> 1) <u>Adopted</u> Resolution No. 5744, Declaring the Need for an Emergency Expenditure at Watsonville Box Culvert Near Monterey Road; and 2) <u>Appropriated</u> \$27,000 From the 2003-2004 Regional Drainage Non-AB1600 (304) Fund for the Emergency Guard Rail Replacement at the Watsonville Box Culvert Near Monterey Road.

5. DECLARE EQUIPMENT AS SURPLUS

<u>Action:</u> <u>Declared</u> Equipment as Surplus and **<u>Authorized</u>** the Sale at Auction.

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6. <u>DECLINE OFFER FROM KENDAL HILL OWNERS' ASSOCIATION</u>

<u>Action:</u> <u>Directed</u> Staff to Prepare a Letter Declining the Offer by the Kendal Hill Owners' Association to Accept a Parcel of Land.

7. 2003-2004 HAZARDOUS VEGETATION PROGRAM

<u>Action: Adopted</u> Resolution No. 5745, Declaring Weeds and Brush to be a Nuisance and <u>Setting</u> January 14, 2004 as the Date for the Public Hearing Regarding Weed Abatement, and June 2, 2004 as the Date for the Public Hearing Regarding Brush Abatement.

- 8. SPECIAL CITY COUNCIL AND SPECIAL BOARDS, COMMISSIONS, AND COMMITTEES MEETING MINUTES OF NOVEMBER 11, 2003

 Action: Approved the Minutes as Written.
- 9. <u>SPECIAL CITY COUNCIL MEETING MINUTES OF NOVEMBER 19, 2003</u> *Action: Approved the Minutes as Written.*

3. <u>EMERGENCY EXPENDITURE FOR JACKSON BOOSTER WATERLINE REPLACEMENT PROJECT</u>

Mayor Kennedy noted that this item would authorize an emergency expenditure for the Jackson Booster Waterline Replacement Project. It was his belief that this pipeline was installed not too long ago. He was surprised that the pipeline would need to be replaced so soon. He inquired if there was any liability on the part of the manufacturer or the engineer.

Director of Public Works Ashcraft informed the Council that it was his belief that this pipeline was built with the original construction of Jackson Oaks. Therefore, the pipeline would be over 20-years old. He indicated that this is a high pressure line and is located on the top of the hillside. He did not believe that there was any liability with the original installer as it is staff's belief that the hillside is moving. He said that this is a brittle pipe that will be replaced with a steel pipe.

Action:

On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (5-0): 1) <u>Adopted</u> Resolution No. 5743, Declaring the Need for this Emergency Expenditure; and 2) <u>Approved</u> Transfer of \$55,000 from CIP Project #615095 to #610093; and 3) <u>Approved</u> Expenditure of \$55,000 for Emergency Construction to Abandon and Replace 575 feet of 8-inch Waterline above Jackson Booster Station.

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Action:

On a motion by Council/Agency Member Sellers and seconded by Council/Agency Member Tate, the Council/Agency Board unanimously (5-0) <u>Approved</u> Consent Calendar Item 10, as follows:

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10. <u>JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY</u> MEETING MINUTES OF NOVEMBER 12, 2003

Action: Approved the Minutes as Written.

Redevelopment Agency Action

CONSENT CALENDAR:

<u>Action:</u> On a motion by Agency Member Sellers and seconded by Agency Member Tate, the Agency Board unanimously (5-0) **Approved** Consent Calendar Item 11, as follows:

11. <u>REALLOCATION OF LOAN FUNDS FROM MURPHY RANCH I TO MURPHY RANCH II</u>

<u>Action:</u> 1) <u>Approved</u> a Loan Increase of up to \$1,570,000 for Murphy Ranch II, but Only to the Extent That Sum is Repaid From the Existing Agency Loan on Murphy Ranch, Phase I; and 2) <u>Authorized</u> the Executive Director to Modify and Execute Loan Documents as Required, Provided the Approved Loan Amount is not Exceeded.

City Council Action

OLD BUSINESS:

12. <u>APPEAL APPLICATION, AP-03-05: JARVIS-MORGAN HILL DEVELOPMENT PARTNERS</u> (Continued from 11/19/03) – Resolution No. 5746

Director of Community Development Bischoff presented the staff report. He indicated that at the Council's November 19, 2003 meeting, the Council directed staff to return with a resolution of denial of a church to be located within the Morgan Hill Ranch Business Park with the appropriate findings. He recommended that the Council adopt the resolution confirming the action it took at the November 19, 2003 meeting.

Council Member Carr indicated that the Council received a faxed letter from Rob Eves, Venture Corporation, and a copy of a termination letter stating that the church has withdrawn its offer to purchase Anritsu's property. He inquired whether the Council needs to formally take an action of denial.

Mr. Bischoff indicated that a conditional use permit runs with the land. He stated that even if Foursquare Church was to back out of the land purchase, it is still an entitlement that otherwise might be available to someone else. He stated that it would be appropriate for the Council to adopt the resolution, formalizing its past action.

Council Member Tate noted that the findings contained in the resolution are specific to this use.

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Mr. Bischoff stated that the findings could equally be applicable to another church and that adoption of the resolution would confirm action taken by the Council.

Mayor Pro Tempore Chang did not know how the use permit could apply to another similar use.

Mr. Bischoff informed the Council that the Foursquare Church use permit application has not formally been withdrawn.

Mayor Kennedy felt that it would be a simple formality to act on the recommended actions.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: On a motion by Council Member Sellers and seconded by Mayor Kennedy, the City Council, on a 4-0-1 vote with Mayor Pro Tempore Chang abstaining, Adopted Resolution No. 5746, Approving Appeal.

13. <u>APPEAL APPLICATION, AP-03-06: JARVIS-ANRITSU</u> (Continued from 11/19/03) – Resolution No. 5747

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: On a motion by Council Member Sellers and seconded by Mayor Kennedy, the City Council, on a 4-0-1 vote with Mayor Pro Tempore Chang abstaining, Adopted Resolution No. 5747, Taking No Action on the Appeal Application.

14. REIMBURSEMENT OF THE APPEAL APPLICATION FEE FOR THE SANTA CLARA VALLEY AUDUBON SOCIETY AND COMMITTEE FOR GREEN FOOTHILLS (Continued from 11/19/03)

Director of Community Development Bischoff presented the staff report, indicating that the Santa Clara Valley Audubon Society and Committee for Green Foothills appealed an administrative decision to approve a temporary use permit (TUP) to allow continued maintenance and operation of a golf course at the American Institute of Mathematics located on Foothill Avenue. He said that the appeal of the administrative approval was heard by the Planning Commission, indicating that the Commission did not concur with the appeal and allowed the approval of the TUP to stand. He indicated that the City establishes fees by ordinance and requires 100% cost recovery for all applications. He stated that the appeal fee for this action was \$1,084. He informed the Council that both organizations have submitted a letter identifying the reasons they believe the appeal fee should be reimbursed. Staff noted that the City has incurred all costs associated with the review of the appeal. Should the Council decide to reimburse the appeal fee, appropriation should come from the general fund reserve.

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Council Member Sellers noted that an issue was raised in the letter that addresses the cost and the costs relative to other cities. He inquired whether staff was familiar with the costs of similar actions in other cities. Further, would there have been another option for the organizations to pursue as indicated and whether it would have provided them with an opportunity to get a public hearing without going through the same cost that they had in this case.

Mr. Bischoff stated that the City's temporary use permit section of the Municipal code, when written, was envisioned to apply to the location of a temporary construction trailer on a piece of property or a sidewalk sale. He said that the Committee for Green Foothills felt the approval of a use of this magnitude was not something that should occur at a staff level. He said that the code was written in such a way that it does not make this distinction. He said that staff agrees with the Committee for Green Foothills' assessment and that an update of the zoning codes is being proposed to incorporate a hearing process before the Planning Commission for temporary uses of this magnitude. He stated that he knows that there are a number of communities that have an appeal of an administrative action with application costs which are significantly less than full cost recovery. He said that it is a Council policy how much it wants to charge for administrative review. He stated that he was not aware of other procedures used by other cities that might give an appellant an easier way or less expensive way to bring a TUP to the attention of the Planning Commission or City Council.

Council Member Sellers inquired how the timing of a formal hearing would have worked in this particular case.

Mr. Bischoff stated that the golf course was in operation from April 1 to September 30, 2003. He indicated that the City had concerns that the golf course would have impacts on the environment. Staff wanted to impose conditions that would mitigate any adverse impacts to the environment while waiting for the environmental impact report to be completed. If the City would have a more protracted process involving public hearings before the Planning Commission and the City Council, the application would have been delayed as well as the imposition of the condition(s) intended to mitigate and lessen the impacts to the environment.

Mayor Pro Tempore Chang inquired whether the applicant should share in part of the appeal cost.

Mr. Bischoff responded that the City has never required an applicant to share the cost in any City appeals.

Mayor Kennedy inquired whether the City was charging enough for the TUP to achieve full cost recovery.

Mr. Bischoff responded that staff did not collect full cost recovery fees for this TUP/Appeal. Therefore, staff is looking at amending the City's code and that it would be proposed that a TUP application fee for this kind of use be significantly higher. He indicated that the entire process for the TUP has to be changed.

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Mayor Pro Tempore Chang felt that it would be fair, in this case, to charge the same TUP fee so that the applicant and the appellant have the same playing field.

Mr. Bischoff stated that the process does not look at making the fees equal but looks at the average costs associated with various applications. He suspected that the new fee for a TUP of this magnitude would be significantly higher than what it would be for an appeal. In response to Mayor Pro Tempore Chang's question, he did not have a suggestion as to what would be a fair refund as it is a policy matter for the Council to consider.

Mayor Kennedy opened the floor to public comment.

Craig Breon, Audubon Society, said that the TUP system in place is not appropriate for a temporary use like this one. He was pleased to hear that staff is proposing making changes to the ordinance. He noted that it was their action that pointed out the problem. He felt that it was to their credit that the system would be fixed. He said that he pays a \$50 fee to appeal the Director's action in San Jose and that he would be happy to pay this fee in Morgan Hill. He stated that he believes in cost recovery. However, in this instance, someone pointed out that individuals who have a strong stake on the issue did not have an opportunity to speak on a matter of significant public concern unless they paid \$1,000. He felt that this was an issue of fundamental unfairness in this instance. He stated that almost everything about the Institute of Mathematics has been unique. He felt that the Council should make an individualized determination tonight, agreeing with staff that the system needs to be changed.

Brian Schmidt, Committee for Green Foothills, said that this is a significant issue that extends beyond these two organizations. He felt that members of the public would be surprised to learn that they would not be able to participate in a decision that would affect the public without paying \$1,000. He did not believe that it was appropriate to charge an appeal fee in this case. He felt that it was important to keep in mind that the reason that this appeal occurred was because the City granted a benefit to a private party. He said that the City needs to anticipate the likelihood of appeals occurring and incorporate this into the cost, especially for projects that are significant such as this one. He said that the City tried to help the Committee for Green Foothills and the Audubon Society in working with the golf course operations. However, he was not told at that time that participating in the negotiation process would weigh against them in any type of request for waiver of the appeal fees. He said that they might have weighed things a little differently in this situation. The reason a TUP exists for this course is attributed to the fact that they told the City what was going on and that they filed an enforcement complaint that made the TUP occur. He felt that for all the public benefits the City reached and the actions taken, it is felt that the fees should be waived or reduced to \$50.

No further comments were offered.

Mayor Pro Tempore Chang felt that the appeal fee should be equal to what the applicant paid for the TUP. She did not know if the \$50 was the right amount.

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Brian Schmidt indicated that he spoke briefly with Planning Manager Rowe who indicated that the Institute of Mathematics paid approximately \$1,000 for the TUP process. This provided them the right to participate in discussion prior to being granted the permit.

Mayor Kennedy stated that he would support a reduction in fee in an attempt to be fair. He offered to refund half of the appeal fee with the understanding that the City will be revising the process to make sure that there is a better process in the future.

Mayor Pro Tempore Chang recommended that the applicant be charged 30% of the appeal fee.

Council Member Sellers said that he would like to have a reason to refund some of the appeal fees.

Mayor Kennedy noted that there was a question of fairness raised and that the process in place did not allow for an adequate public hearing. He indicated that an administrative decision was made that did not allow for a public hearing. He felt that the City should have this capability in the process. He stated that the applicant had his opportunity to apply for his permit but that the only way any one in the public who had any concerns or objections to get their thoughts and comments addressed was through an appeal process. He felt that the City needs to make sure that individuals have the opportunity to be heard.

Council Member Sellers agreed with Mr. Schmidt and Mr. Breon that this was a unique situation. Had the City gone through a hearing process; there would be no reason to have a permit in place as there would be subsequent actions to be taken. He stated that there might be an appropriate way to compensate these organizations for raising this issue. He felt that the City needs to be careful that it does not use one exceptional case as a standard. He recommended that the City be clear as to why there would be any reduction in fees for this particular instance so that the City does not receive similar requests from any number of appellants and/or creates a situation where you have a nuisance law suit. He noted that staff pointed out that the fees are in place to make sure that costs are recovered. However, he felt that it was the process that should be preserved, including its integrity, and that it not be in a situation where the Council would be asked to have fees waived all the time. He felt that there may be some relevance to making the reduction in this case as indicated by Mayor Kennedy. However, he wanted to make sure that the Council lays out what is unique about this case.

Council Member Tate said that he was struggling with the request as there is an issue of fairness, noting that the City had a policy in place. He stated that the policy and practice were followed and that it could be called unfair. The City may have other rules and regulations in place that are unfair as well. However, these are the rules in place and if not enforced as they exist, the City would have to appropriate monies from the reserves to cover any actions taken by the City, noting that the City spent a great deal more time in this case. The City followed the process in place whether it was the right one or not. It was found that it was the wrong process and that the City would be changing the process. He did not believe that the City would want to go back and see who it owes money to as a practice.

Council Member Chang agreed that the Council should not look at all cases but that it should establish some type of principals. She said that when the rules and regulations were established the Council felt that it was the right thing to do. She felt that it was the role of council members to review the process

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and try to correct problem areas. She was looking at the equality issue of a TUP application as opposed to the appeal fee. She inquired whether it would take more time to evaluate a project from the beginning to the end. She noted that when individuals come forth with an appeal, staff is already aware of the situation and would not require 100% evaluation of the entire project. She inquired whether a 50% refund was a reasonable estimate.

Mr. Bischoff indicated that the appeal fee is the same whether it is a TUP or an appeal of a conditional use permit, zoning or any other type of application. He said that many of these permits have an application fee of approximately \$3,000. He felt that it was a magnitude of 3-1 as a general rule between the actual processing of an application versus the processing of an appeal as a more accurate estimate.

City Attorney Leichter felt that the Council has other reasons before it should it want to mitigate the fees on the basis of equity. She noted that the appellants pointed out a process that was not completely viable in this particular situation. To base it on a percentage of cost recovery would undercut the cost recovery analysis adopted by the Council. She would be hesitant to advise the Council to take any action based on this rational.

Council Member Carr thanked the Committee for Green Foothills and the Audubon Society for being involved with the City through this process. He felt that it has aided the process and that the City has learned a lot from it. He was pleased to hear that staff is already proposing to look at amending the code to improve the entire process and looking at the application and appeal fees. He agreed that the Council has a process, works by the rules and works through the process. It has been agreed that the process needs to be changed, but that the fact remains that the work happened under a different process. He felt that the Council needs to stand by this. He stated that he was willing to compromise from this position and state that the City will be going through the process of amending the code to improve the appeal process. He recommended that this work be done first in order to determine what will result from the work; finding out what the new recommended fee would be. The Council can then discuss how this fee can be applied to this case and perhaps refund the difference if in fact is less. This would provide the Council some justification for why the City is charging a new fee versus randomly stating that it believes that there are some fairness issues to justify reducing the appeal costs.

Council Member Sellers stated that should the City proceed as recommended by Council Member Carr, the appropriate action to take would be to go back to the applicant and state that the TUP costs were greater and that the City would be charging additional fees. He said that the logic and consistency would be to do both. He felt that the fairness issue should be the one that should be pursued. He inquired how long the evaluation process would take.

Mr. Bischoff indicated that staff is undertaking an assessment of establishing a new process for TUPs of this magnitude and was not looking at amending fees for appeals as the cost for processing appeals would not change.

City Manager Tewes said that it is the Council's policy that periodically, and no less than every five years, the City is to undertake a comprehensive fee study to ensure that the City is covering its costs. If the Code was amended to provide for a different process, this would be evaluated for its cost.

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Mayor Kennedy inquired whether it was Council Member Carr's recommendation that the Council direct staff to look into what would be an appropriate appeal fee and not take any action until such time that staff has done this

Council Member Carr indicated that this was what he was recommending. He said that it appears as though staff will be looking at a situation where a TUP of this magnitude would automatically go to the Planning Commission in which case no one would file an appeal. He stated that he would like to see what would come out of staff's recommendation so that the Council is not just choosing a number.

Mr. Bischoff indicated that he suspects that it would be spring, April or May 2004, when staff would have an update to the code. He indicated that staff is evaluating the process of TUPs of this magnitude and more than likely, they would be heard by the Planning Commission and would not affect the appeal fee. He indicated that following the update of the code, a subsequent follow up step would be to establish a new fee for the TUP but that this would not affect the appeal fees.

City Manager Tewes indicated that the work that the Council has authorized is a comprehensive review of the zoning and subdivision codes, including the issue of conditional and temporary use permits.

Council Member Sellers said that should the Council pursue Council Member Carr's suggestion on staff's evaluation of the process, it may turn out that the organizations would not need to pay a fee and that the entire fee would be reimbursed.

City Manager Tewes said that should the Planning Commission approve a TUP, there is a right of appeal to the Council and that there would be an appeal fee to do so.

Council Member Sellers stated that he appreciates the fact that these two organizations were involved in the process. He said that the Council needs to continue the dialogue throughout this particular situation in the future. He had no doubt that the process the City ends up with would save a lot of money in the long run. He felt that it should be a City goal to try to make these opportunities as painless as possible. However, he said that he could not get beyond the fact that if the City starts altering the situation now, the City would create a situation where it impacts the appeal's cost recovery process. Therefore, he could not agree to refund the appeal fees this evening. He felt that everyone is dedicated so that in the long term, the City would make the appeal process for groups like this better in the future.

Mayor Pro Tempore Chang noted that it would be a long time before staff returns with a recommendation on the process. She felt that because of the fairness issue, the Council should do something this evening. She stated that she would support refunding 50% of the appeal fees.

<u>Action:</u> Mayor Kennedy made a motion, seconded by Mayor Pro Tempore Chang, to reduce the appeal fee by 50%. The <u>motion failed</u> 2-3 as follows: Ayes: Kennedy, Chang; Noes: Carr, Sellers, Tate.

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City Council Action

PUBLIC HEARINGS:

Mayor Kennedy suggested that the Council address items 15, 16, 17 and 18 concurrently as they are all interrelated, as far as public comments are concerned. He recommended that the Council take separate action on each agenda item.

15. ZONING AMENDMENT, ZA-02-16; DEVELOPMENT AGREEMENT AMENDMENT, DAA-02-09: DEWITT-MARQUEZ – Ordinance No. 1643, New Series

Director of Community Development Bischoff presented the staff report for the four separate applications before the Council this evening. He indicated that all of these items were on the Council's agenda a couple of meetings ago. However, due to concerns of the Council members, the applications were delayed to schedule the subdivisions for public hearing and to give staff time to bring to the Council the reason why Price Drive be extended to DeWitt Avenue. He indicated that Monday afternoon, staff had an opportunity to meet with the Mayor, the developer of two parcels and residents for the John Telfer Drive and Price Court area to discuss some of the problems and possible solutions. He stated that one of the primary concerns raised by the neighbors in this area at the prior meeting was the extension of the street. At the meeting held Monday afternoon, there was discussion about alternatives that might address the neighbors' concerns. He said that an outcome of this meeting was that the developer agreed to investigate the feasibility to have Price Drive develop as a knuckle instead of having Price Drive extend straight through. A cul de sac would be established on the street such that the development would still provide the looping circulation staff believes would be necessary for emergency vehicles and police patrol but making it circuitous enough that it would address the neighbors' concerns about through traffic entering their neighborhood. He indicated that at the conclusion of the meeting, the developer agreed that this was something that he would investigate to see if it would be feasible. At the meeting, it was agreed by all in attendance that what would take place this evening is act on the development agreements for two parcels as the applicant needs additional time so that he would not be in default. He said that there is no doubt that the process has been delayed because of the discussions relating to circulation. There would be a delay in approving the RPD for the entire property and that there would also be a delay on the subdivision approvals to the Council's January 21, 2004 meeting. Based upon this agreement, it was suggested to the neighbors in attendance that it was not necessary to attend this evening as there was some assurance given that action would not be taken on the subdivisions. He indicated that the Council has a supplemental handout prepared by the engineer of the developer that shows the actual configuration and how the knuckle might work. He informed the Council that staff would recommend that with respect to item 15 that action be taken only with respect to the development agreement amendment and not with respect to the RPD. With respect to item 16, staff recommends that the Council approve the development agreement. Staff further recommended that items 17 and 18 relating to the subdivision applications be continued to January 21, 2004.

Mayor Kennedy stated that he met with the applicant and the residents. There was a follow-up meeting held with staff last Monday. He indicated that those in attendance reviewed various options. As he understands the concerns of the residents, it is primarily safety on their street as it is steep in certain

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places with several blind curbs and no side walks. Another issue identified is potential flooding down Price Court. He indicated that the group met with staff and came up with several possible options to address the traffic safety concern. One suggestion was to have a double cul de sac on the Price Court stub and a cul de sac on the new street coming from DeWitt with the use of turf block in between the cul de sac to allow emergency vehicles to get through. Staff was asked to consult with police and fire personnel to see if the alternatives would be acceptable for emergency vehicle access. He indicated that the residents were proposing that either a gate or bollards be put in the middle of the street if the street is cut through, keeping it locked and that only emergency vehicles would be allowed to go through. A third alternative was to install a traffic circle with an island in the middle of the new street that would serve to slow traffic down. A fourth alternative would be the knuckle turn on Price Court to Price Drive that would allow the street to go all the way through, changing the name of Price Drive as it implies that this is a through street. He said that if and when Santa Teresa cuts through, DeWitt would be blocked and a cul de sac be designed at the end so that it does not tie in with Santa Teresa nor continue to the south. He inquired as to the feedback from police and fire with respect to circulation.

City Manager Tewes indicated that staff met with the group on Monday afternoon and that it was represented that in addition to the investigation that the developer would conduct, staff would have police and fire departments look at the alternatives with the expectation that staff would get back to the Council in 30-days as staff does not have responses yet.

Mayor Kennedy recommended that the final knuckle turn with the cul de sac and short street off DeWitt be approved.

Council Member Sellers noted that Mr. Bischoff mentioned that there was an indication to the residents that they would not need to be in attendance this evening. He did not want to be in a position where citizens would return to advise the Council that they were told that no action would be taken this evening. He inquired whether staff had some sense if the neighbors would approve the Mayor's recommendation.

Mr. Bischoff informed the Council that most of those in attendance this evening were also in attendance at the Monday afternoon meeting.

Mayor Kennedy said that the statement that was made at Monday's meeting was that the Council would act on the development agreements, and that the Council would continue the other applications. He did not know whether it was specifically stated that the residents did not need be in attendance this evening.

Mayor Kennedy opened the public hearing.

Dan Gluhaich, applicant, stated that he followed the plan per the original RPD when he started the project. He confirmed that he met with the homeowners and that he knew that they did not want Price Court to go through. He proposed a gate at first, indicating that public works staff was not supportive of it. He reviewed other alternatives that public works and planning did not support as well. He said that he and his partner laid out a plan that works for the benefit of the residents; and that they do not have a problem with it. The only problem experienced was that Planning Manager Rowe indicated that he

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might not be able to get two permits on two lots because of the length of the loop street. He informed the Council that he does not own two parcels within the PUD. He indicated that those property owners do not have Measure P approval at this time. He said that he did not have a problem with the plan and welcomed the Council's approval this evening in order to move forward with the project. He said that he has to receive all his permits or the project would not be feasible. He requested that the Council work with him and provide permits for all nine lots. He stated that he would agree to install a bulb and loop street as depicted in the plans.

City Manager Tewes said the police and fire agencies comments would be addressed as long as a continuous street is proposed.

Mayor Kennedy stated that he heard that the fire department would agree to the installation of a turf block but that the police department would have to drive through loop so that they can perform their circulation route. He noted that this is no longer proposed as there were objections to this as well as to the use of bollards and/or a gate.

Mr. Gluhaich said that he does not have a problem with the use of turf block. However, the police department has a problem with its use.

City Manager Tewes indicated that it appears that the map as drawn shows Price Court from its existing stub would be an open public roadway to the east. He said that if a continuous road system is built, one does not need to worry about the other comments.

Mr. Gluhaich indicated that a barricade is not proposed at the terminus of Price Court as it exists today. He stated that the adjacent property owners have submitted an application for Measure P. He does not know whether the property owners will be successful in attaining building allocations. Therefore, he has no control over the two properties.

Mayor Kennedy said that there may be a delay in completing the northern most properties. This would result in having an extension of John Telfer Drive with another 90 degree loop at the end with one or two houses being developed.

Mr. Bischoff said that Planning Manager Rowe has expressed concern that the extension of a cul de sac would be longer than the current City standards allows. However, it is a policy matter that is within the Council's purview to discuss/approve the extension of a cul de sac.

Mr. Gluhaich pleaded with the Council to see if there was any way to see if the layout and circulation could be made to work as every month that goes by is creating more and more hardship on him and his partner. He stated that he was willing to work within the parameters that are required as long as he is able to attain the additional two permits.

Paul Conte, 16955 John Telfer Drive, indicated that John Telfer Drive is a race track, noting that it is a dead end street. Opening up any traffic to the court would make the area more dangerous. He would

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state that he would support the installation of speed bumps in front of his house as he has a concern with safety.

Khristine Gagliardi, 16935 John Telfer Drive, said that there has not been an issue after 30 years and now there is a debate of a safety concern of the neighborhood of having the police and fire departments having an access as it was not a concern 20-30 years ago.

Mayor Kennedy said that it is more an issue of a City policy and what the City wants to do with police enforcement so that they have a loop access to the neighborhood. He said that the existing neighborhood would not have been designed as it exists today based on current city standards. Therefore, the city is stuck with the current condition. He said that the police force likes to have a loop access so that they can drive through and not end up in a dead end street as it waste their time and would not be appropriate way to design roads.

David Wright, 16830 Price Drive, stated that another reason to have the road loop to the left is to slow traffic down through the neighborhood.

Marc Nehamkn, 16925 John Telfer Drive, indicated that he and his neighbors have young children and that the road is very dangerous as it has a double blind and no sidewalks. He said that the majority of the residents are concerned with traffic and safety. He finds it incomprehensible that the traffic report states that the proposed circulation design would reduce traffic. He said that area residents know the neighborhood and where the children are and that strangers would come through and not know where the children are. He felt that the traffic study was misleading because it is neither qualitative nor quantitative. He felt that the proposal to make the curve in the street would help to reduce traffic. If the City wants to install sidewalks, he would be supportive of this effort but did not believe that there was room to do so.

Cynthia Bunch, 16830 Price Drive, thanked the Council for meeting with the residents and trying to work out a solution. She said that ideally, the neighbors would like the through road blocked. However, if the road can be tied to the loop road in order to detour some of the traffic, it would be supported. She said that a lot of people race down from Price Court, noting that it is a steep area. She said that her home is on a 30% incline. Therefore, the homes would not be built today based on city standards. She stated that there is a 50% steep increase from Price Drive to Price Court. The neighbors are concerned about the steep grade and slippage of homes. She would appreciate a circulation design that would slow traffic down. She noted that one home does not meet the minimum 20,000 square feet lot size that was agreed upon in 1996 by the Planning Commission. She requested that the homes against the existing homes meet the minimum lot size. She requested that it be stipulated that the future parcel seeking building allocations maintain the lot. She indicated that the last two years, the Santa Clara County Weed Abatement has come out and cut the weeds for that property. She felt that this service cost all tax payers money. She requested that the property owner take responsible for weed abatement and cover it either by landscaping or maintaining it on a regular basis.

Bill McClintock indicated that staff advised him that this project would not be back before the Council until January 21, 2004. He stated that he was ready to make the changes to the design as the plans are

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completed for the development as approved by the Planning Commission. He felt that the neighbors agree that looping the street would slow down the traffic. He stated that he would like to go forward with the project. He indicated that the project proposes a longer than standard cul de sac. He said that the City had this situation recently in the Pat Ansuini project as well as the Coyote Estates development along Malaguerra. The Council actually allowed a longer than standard cul de sac because the developers did not want the through road to interfere with an adjoining development. He felt that a precedent exists to state that two more homes on a longer cul de sac would be satisfactory and everyone would go away knowing what will happen to the project. This would allow the applicants to continue with their projects.

City Manager Tewes clarified that if the County Fire Marshall orders weed abatement to be done, a lien is placed on the property and that the tax payers are not paying for this work.

No further comments being offered, the public hearing was closed.

Council Member Sellers inquired as to the applicant's ability to move forward and the timeframe.

Mr. Bischoff said that the additional time is not a function of staff work load or the number of items scheduled for the Council's December 17 agenda as it was the commitment to the 30-day period for which the developer would be looking at these alternatives. If the neighbors and Council feel comfortable that everyone has had adequate notice, there is nothing that would preclude staff from bringing the applications back to the December 17 Council meeting for action.

Mayor Kennedy said that it seems that the applications were in a position to move forward this evening as the residents and developers have agreed to the circulation design. This would allow the developer to pull his permits and meet the development schedule. He did not see a reason to delay the applications any longer.

Council Member Tate stated that he would agree to proceed as long as staff is comfortable that the only issue is the long cul de sac that needs resolution.

Mr. Bischoff said that the proposal was discussed in concept on Monday evening and that staff viewed the revisions late this afternoon. Therefore, he was not sure what kinds of comments would come from public works or planning division. He stated that he was not aware of any issues other than the extension of the length of the cul de sac.

City Manager Tewes indicated that the 30 days was based on a commitment made at a community meeting. If representatives who attended that meeting are satisfied with what is being seen this evening, there is no need to wait 30 days. He said that there were engineer drawings faxed to some Council Members today and that staff looked briefly at them this afternoon. He indicated that staff has to review the drawings. The Council may want to make a general indication of support of this concept. Staff would return to the Council on December 17 with a quick review of the map and subdivisions for items 17 and 18.

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Action: On a motion by Council Member Sellers and seconded by Council Member Carr, the City

Council unanimously (5-0) <u>Approved</u> the Negative Declaration.

Action: On a motion by Council Member Sellers and seconded by Council Member Carr, the City

Council unanimously (5-0) Continued the Zoning Amendment (Prezone) application to

December 17, 2003.

Action: On a motion by Council Member Sellers and seconded by Council Member Carr, the City

Council unanimously (5-0) Waived the Reading in Full of Development Agreement

Amendment Ordinance No. 1643, New Series.

Action: On a motion by Council Member Sellers and seconded by Council Member Carr, the City

Council <u>Introduced</u> Ordinance No. 1643, New Series by Title Only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1618, NEW SERIES, TO AMEND DEVELOPMENT AGREEMENT DA-02-09 FOR APPLICATION MMP-02-02: DEWITT – MARQUEZ TO ALLOW FOR A THREE-MONTH EXTENSION OF TIME FOR FINAL MAP SUBMITTAL AND A SIX-MONTH EXTENSION OF TIME FOR BUILDING PERMIT SUBMITTAL FOR FOUR (4) BUILDING ALLOTMENTS AWARDED IN THE 2002 RDCS COMPETITION (APN 773-08-014) but the fell proving and least testing and least te

014), by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES:

None; ABSTAIN: None; ABSENT: None.

16. <u>DEVELOPMENT AGREEMENT DA-03-05</u>: <u>DEWITT-MARRAD GROUP</u> – *Ordinance No. 1642*, *New Series*

See comments as stated under agenda item 15.

Action: On a motion by Council Member Sellers and seconded by Council Member Carr, the City

Council unanimously (5-0) Waived the Reading in Full of Development Agreement

Ordinance No. 1642. New Series.

Action: On a motion by Council Member Sellers and seconded by Council Member Carr, the City

Council <u>Introduced</u> Ordinance No. 1642, New Series by Title Only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA-03-05: DEWITT – MARRAD GROUP (APN 773-08-015), by the following roll call vote: AYES: Carr, Chang,

Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

17. SUBDIVISION, SD-02-11: DEWITT-MARQUEZ

See comments as stated under agenda item 15.

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City Manager Tewes indicated that the developers and the neighbors may want to know the Council's intention to approve a subdivision similar to the one presented to the council this evening. He clarified that the Council would not be approving the subdivision until the proper maps have been submitted to public works/engineering and approved by the City Engineer.

Action:

On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (5-0) <u>Continued</u> item 17 to December 17, 2003, indicating that it was the Council's intent to approve the tentative subdivision map as presented this evening.

18. <u>SUBDIVISION, SD-03-05: DEWITT-MARRAD GROUP</u>

See comments as stated under agenda item 15.

Action:

On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (5-0) <u>Continued</u> item 18 to December 17, 2003, indicating that it would be the Council's intent to approve the tentative subdivision map as presented this evening.

City Council Action

OTHER BUSINESS:

Action: It was the consensus of the City Council to consider agenda item 20 at this time.

20. DESIGN OF SANTA CLARA COUNTY'S COURTHOUSE PROJECT

Director of Business Assistance and Housing Services Toy indicated that the item before the Council was to provide comments to the County and their design team on the courthouse current design and commit funding for the shared driveway approach for the future City fire station and the county courthouse. He said that the County would be addressing new computer generated perspectives of the elevation as requested by the Council at the last meeting. The County will comment on the revised material and sample boards, give a current review of the current design and make the request that the City commit to funding the shared driveway approach between the future fire station and the county courthouse. He indicated that a concrete driveway is needed to support the return of the fire vehicles to the fire station. He stated that it should be noted that the City's landscape comments would be incorporated as overall comments on the 50% construction drawings and address the City's comments with future revisions in a construction document. He introduced Kevin Carrouth, Director of General Services with the County of Santa Clara.

Mayor Kennedy opened the floor to public comment.

Kevin Carrouth thanked the City Manager and the City Attorney for supporting and helping County staff with an agreement through the Council and through the County Board of Supervisors before the end of

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the calendar year. He said that this would allow the County to sell bonds this calendar year that are worth over \$40 million to the County of Santa Clara. He said that it was important for the County to sell these bonds and commit this money this calendar year. He appreciated the City's support in making this possible. He reported on the current design of the courthouse, identifying design changes that have occurred since August. He indicated that revisions have been made to the materials sample board and that they were available this evening, indicating that warmer tones have been incorporated in the design as directed by the Council. He received the City's comments with respect to the landscape, indicating that they are considering them along with other comments received on the 50% construction documents. He was present to receive any other comments the Council may have on these documents. He informed the Council that there is one change that will not be seen this evening relative to the interior of the project. He said that Senate Bill 1732 passed in 2002 sets up the transfer of the courts from the county to the State. This bill requires the County to provide court facilities as were needed in 1996. He said that at that time, the courthouse was located in San Martin and that the County had three court facilities. He said that the County is only obligated to provide three courthouses. He has been working with the court where they would build four courthouses and that the State would be responsible for paying out the build out of the other two.

Mallory Cussenbary, courthouse architect, presented the colors and materials sample board. He stated that what is before the Council remains unchanged and the project is through the construction document phase. He said that he held another value engineering session to bring costs in line with the budget for the project. He was able to do so without any significant changes that would be seen at the courthouse. He indicated that the entry canopies were retained and incorporated improvements in some areas, including site fencing and side walls. Items that changed include the colors of one of the plaster items; provided additional sidewalk areas, changed a few of the tree planting patterns, provided fence upgrades, and made slight revisions to the Butterfield side mechanical screen wall to meet the Council's stated objectives. He said that he has significantly lightened and added warmth to the background plaster. He noted that the primary plaster is to be white and that there would be a secondary plaster color that would be in the recesses of the building. He felt that he has warmed the colors up and was confident that this was the right thing to do for this project and brings back warmth to the project. The sidewalk extension is continuous on Diana Avenue. There has been the removal of one tree from each of the bays as a result of further studies relative to site lighting. There was a goal of keeping the lights low on the parking lots and to have greater visibility for the security cameras. He indicated that the project accents the two pedestrian paths through the site. Even though some trees have been removed from secondary areas, the project still retains the concept of having the orchard. The project provides fencing upgrades. He addressed the mechanical screen wall, indicating that the design has lowered and minimized the presence of the space between the two buildings and made efforts to reduce the massiveness of the mechanical areas. An idea contemplated was to lower the walls and push it back from the face of the building. He did both, one of which he felt was working toward the objective. One worked against the objective, this was pushing the wall back as it revealed the two story corner of the mechanical volume attached to the courthouse. Subsequently, it becomes very prominent. In order to meet the objectives, it is proposed to lower the wall and bring it out slightly in order to obscure the two story height of the volume, giving a feel of a series of terraces and different volumes.

The Council reviewed the renderings prepared for the court house.

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Mr. Cussenbary indicated that a landscape rock was introduced as an element due to the fact that the project is tight on land area to reach the amount of detention that has to be provided for this area. If the detention got any deeper, a fence would need to be installed. He felt that it would be a mistake to install a fence around the detention area.

Mayor Kennedy requested a visual be presented of what is being proposed as it is something that will have a lasting visual impact from the downtown side of the City and the train.

Mr. Cussenbary said that it is the idea to try and rationalize the landscape rock design so that it does not feel like a random pile of rocks. It is his hope to make it work as though it was providing a base and have a certain grandeur to it as a design intent.

Council Member Sellers thanked County staff for their continued cooperation and patience.

City Manager Tewes recommended that the source of funding for the concrete driveway come from the fire impact fund.

No further comments were offered.

Action:

On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) <u>Appropriated</u> funding from the Fire Impact Funds for the Installation of a Concrete Driveway Between the Courthouse Complex and Future City Fire Station.

19. AMENDMENT OF RESOLUTION NO. 5738 REGARDING WRITTEN ARGUMENTS REGARDING BALLOT MEASURE EXTENDING AND UPDATING RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) – Resolution No. 5739

City Attorney Leichter requested that the Council designate which council member(s) would be drafting the arguments in support of the ballot measure.

Mayor Kennedy recommended that Council Member Tate, as chair of the Measure P update committee, be authorized to draft the argument with the understanding that all council members would sign the argument.

Action:

On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) <u>Authorized</u> the entire Council to sign the argument in support of the ballot measure for Measure P.

Mayor Kennedy indicated that with other ballot measures, the Council was divided into different groups with some Council Members writing the ballot arguments in favor and others wrote the rebuttal arguments to avoid the issue of having a Council meeting in having all council members participate in the drafting of the arguments.

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Action:

By consensus, the City Council <u>Adopted</u> Resolution No. 5739, Amending Resolution No. 5738 to Appoint Council Members Carr and Tate to Draft Arguments Regarding Ballot Measure Extending and Updating the City's Residential Development Control System (RDCS).

21. <u>INTERIM USES SUBCOMMITTEE STATUS REPORT</u>

Director of Community Development Bischoff presented the staff report, indicating that the interim uses subcommittee was looking for direction from the Council whether they were in the right track. He noted that the staff report contained five specific suggestions from the interim uses subcommittee: 1) consider amending code that would allow conditional uses of a limited duration to not install all on-off site improvements; 2) add a requirement of public benefit finding to be made in order not to require all on-off site improvements; 3) make employment centers conditional uses in the CC&R zone; 4) require bonding for these improvements; or 5) require an exit plan such that when the use is getting close to the duration over which the Council would allow for improvements not to be installed, that a strategy or plan be put into place to ensure that the improvements are installed at the time that the temporary use has reached its duration.

Council Member Tate said that it was his feeling that the charge from the Council was to get this done in a short period of time. It would be his recommendation that if a public benefit could be found, the Council can selectively defer certain on and off site improvements for temporary uses. The City Council would make the determination of what constitutes a public benefit. He did not believe that it was worthwhile to try to come up with some general purpose definition because it seems that any time that a use of this nature comes before the Council, it would be specific to some kind of public benefit. He felt that the Council could state that the employment center that removes workers seeking daily employment from the street is a public benefit. He said that the Dayworker Committee is looking at a maximum of five years on the site. He said that he considers a temporary use be a duration of no more than three years. He recommended that the dayworker center be allowed for three years with a maximum of two, one-year extensions (up to five years). He stated that he liked the idea of an exit plan being submitted one year prior to when the use would vacate the facility. He felt that the specific items being requested be deferred must be individually approved, noting that the Council need not approve them all. He stated that staff could not find a city who did not see temporary uses convert into permanent uses. This is a danger the City needs to look out for. Therefore, he felt that an exit plan was very important and should have a lot of emphasis. He would like the dayworker center to move forward and accommodate it because he felt that some of the items can be deferred. On the other hand, the Council may be setting a precedent that it may not want to set. He said that staff's research gave them a lot of trepidation and that he understands this. He explained that an exit plan is a project management plan of a timeline of the actions to be taken to phase out of the temporary use. In this case, it would be the creation of a permanent facility.

Council Member Carr recommended that the exit plan be tied to a timeline of one or two years from the date of deferral. This would result in an applicant coming back to the Council with an exit plan within a year of approval of the deferral.

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Council Member Tate felt that Council Member Carr's suggestion would be a little more aggressive than the dayworker committee would want to look at. It was his belief that the dayworker committee would want more experience than just the one year before they craft an exit plan.

Council Member Carr stated that it was his understanding that one year prior to the expiration of the deferral; an exit plan would need to be submitted. He said that the deferral would be for a maximum of three years with a maximum of two, one year extensions. Therefore, in year four, an exit plan should be submitted. He recommended that the exit plan be submitted earlier such as in year one or year two from the date the deferral was approved.

Mayor Pro Tempore Chang recommended that the decision of the exit plan be made on a case by case basis. She noted that the exit plan for the dayworker use is the construction of a new facility. However, by the end of year one, she did not know whether there would be enough success to know that the dayworker center is working or where they will be relocating.

Council Member Sellers felt that the exit plan was a sound concept and that the Council needs to figure out a way to implement it. He inquired whether the dayworker committee knows when they would be leaving the temporary use situation. He would hate to be in a situation where one is obligated to stay in the temporary facility and whether penalties would incur based on the lack of a submittal of an exit plan. He felt that the Council could give some latitude in terms of how much time you have from the beginning to submit an exit plan. He felt that a temporary use proponent should be working on an exit plan from the beginning as opposed to working backwards on an exit plan.

Mayor Pro Tempore Chang inquired whether finding a rental facility would be enough to satisfy an exit plan.

Mayor Kennedy inquired whether elements of an exit plan would include a schedule to vacate the premises.

Mr. Bischoff indicated that the Council would be allowing for a deferral of the installation of on-site improvements. The exit plan would identify how one would ensure that at the end of the three year period that these improvements are installed or the property is vacated. This means that the use moves out and that the modular buildings are removed from the property. At the end of the second year it would not be known if one would be granted an extension beyond the end of the third year. Therefore, it is proposed that at the end of second year, there would be an expectation that the user would come back to the City with a plan for vacating the premises and plans for site clean up, or that funding would be identified to install the deferred improvements.

Council Member Sellers noted that staff is recommending that within 24 months, an exit plan is to be submitted for a three year temporary use.

Council Member Carr stated that he did not consider it to be a temporary use if it exceeded three years in a location. If an exit plan is required within 12 months, this would be aggressive and may be asking for

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too much. However, if the Council states that an exit plan is required within 24 months, it was his belief that the Council would receive it in 24 months. This would encourage a temporary use to be in place for up to three years.

Council Member Sellers inquired whether it could be stipulated that an exit plan is to be submitted within 12-24 months prior to vacating the property.

City Attorney Leichter stated that individuals coming in with a temporary use theoretically have an exit plan from day one. The longer the Council strings out the exit plan issue, it starts to give the appearance of a permanent use. She was not sure how the City would differentiate this in either the terms of drafting the ordinance for purposes of clarity or to defend against an equal protection law suit. She said that the City really needs to make this look as temporary as possible.

Mayor Kennedy recommended that it be required that an applicant develop an exit plan at the beginning and not wait to the end of the term of the temporary use. He recommended that after one year of occupancy, an applicant would develop an exit plan.

Council Member Sellers noted that an exit plan is not a complicated document. Should a user's plan change, the exit plan can be modified.

Council Member Carr requested that the subcommittee look at an exit plan being tied with a timeline of occupancy or the deferral of improvements. He agreed with the City Attorney that when one goes into a temporary use, one should have an idea about an exit before committing to a temporary use. It was his understanding of this project that the idea from day one when the doors open for the temporary use, the vast majority of the time should be spent on the permanent location as the committee has not been able to do so. He felt that as short of a timeline for the submittal of an exit plan is important.

City Attorney Leichter recommended two other considerations for the subcommittee, assuming that she would be receiving the direction to convert this into an ordinance. The first one is to define what would be considered a public benefit and how narrowly the Council wants to define it. What is the criterion that the Council will use to determine this (e.g. economic development, opportunities for low and moderate income individuals)? She inquired whether the Council wants it to be more broadly stated than this. The other issue is how the exit plan is to be processed; would it be approving the plan, refining it or the ability to modify it. She requested that the subcommittee give direction on these as it would be helpful.

Council Member Tate recommended that the definition of public benefit be kept as broad as possible so that the Council can have discretion in terms of things that might come up.

City Attorney Leichter indicated that the Council would need to recognize that it would get all sorts of arguments before it as to what constitutes a public benefit in terms of different temporary uses in the CC&R district.

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Mayor Kennedy recommended that the interim use be an administrative approval with an appeal to the Council if there is a problem. With respect to public benefit in this particular instance, the nature of the use would improve the sanitation, health and hygiene of the community and of those who need/use the facilities. He said that there are basic sanitation public benefit issues that would result.

Mayor Kennedy opened the floor to public comment.

Julian Mancias said that the finding in the report indicated that other agencies have seen many temporary uses become permanent uses. He wanted to make it clear that the dayworker committee does not want to make the use permanent. It is their goal to find a permanent location, beginning on the search immediately. He stated that the dayworker committee would work on the exit plan as well. The committee wanted to ensure that interim uses apply to other uses. The City has the opportunity to create a model that may benefit other communities as this is not the only city that has this issue.

Mayor Pro Tempore Chang said that as far as the dayworker project is concerned, she felt that the deferred items being requested are actions that need to be taken to push the hurdle. She said that this is a small piece of the total picture.

No further comments were offered.

Action: No Action Taken.

22. CITY-WIDE SURVEY

Assistant to the City Manager Dile presented the staff report, indicating that the most economical option would be to participate in the National Citizens Survey with a base cost of \$7,500. She indicated that fully customized surveys are available but are more expensive at a cost of approximately \$17,000-\$23,000. The cost would vary depending on the size of the sample the Council was interested in looking at and whether or not the survey would be administered in more than one language. She indicated that the current year's budget does not include funding for a city-wide survey. Should the Council wish to pursue a city-wide survey, funding could come from the general fund reserves.

Council Member Sellers indicated that one of the survey foundations was retained recently on behalf of a client. He inquired whether he would have a conflict in discussing this item, indicating that it was not the National Citizens Survey that he retained.

City Attorney Leichter said that Council Member Sellers may have a common law conflict of interest. She recommended that he recuse himself from this issue as staff is requesting direction.

City Manager Tewes noted that staff is not requesting a specific contract with a specific firm. Staff brought this informational item to the Council to determine whether or not the Council wanted to proceed. Should the Council support conducting a survey, staff would proceed with a procurement process of some sort.

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Council Member Sellers recused himself from this item and stepped down from discussion on this item.

Council Member Carr said that some type of a citizen survey is a very good idea and a good way to try to improve upon the things the City is doing. He inquired whether a representative from the National Citizens Survey would draft and conduct a presentation of the information gathered.

Assistant to the City Manager Dile responded that it was not her belief that a presentation before the Council is included in the cost but that the City would receive a detailed report and possibly a phone consultation as their office is located in Colorado.

Mayor Kennedy said that in light of the City's budget situation, he did not know if the City should embark on a citizen survey right of way. He recommended that the Council retain the information presented by staff and discuss this at a Council goal setting workshop to see if it fits into some of the things that it wants to do.

Council Member Tate said that he is very interested in conducting a city survey. He likes the cost of the National Survey, given the City's budget situation. He said that it allows a little flexibility in asking some policy questions. He felt that the Council needs to understand better whether it can find out the citizens feelings of the Council's prioritization. He was not sure how much the Council can get with three or four policy questions but that before the retreat, the Council can understand this better.

Council Member Carr felt that discussion of a city-wide survey would be a good item to discuss at the Council's goal setting session. He felt that there is an urgency to some of the significant policy discussions that the Council needs to have on RDA funding and for setting priorities for the upcoming budget year. Coming out of the Council retreat with a recommendation would be a good idea.

Mayor Kennedy felt that it was time to conduct an update to the visioning process or proceed with a new visioning process. He noted that the last visioning update was conducted in 1995. He felt that this may be one element of the process.

Council Member Tate felt that the Council made commitments to the public in terms of what the City will do. To now state that the City will be stopping and not deliver the commitments made in a 2-3 year visioning process will not be received well by the community.

Mayor Kennedy clarified that he was not proposing that the City stop what it is doing. He felt that the Council needs to report to the public what the City has accomplished, where it is, and what needs to be done in terms of the visioning process. He was not implying that a full blown visioning process be undertaken but perhaps an update to the one previously conducted or some other version of this process.

Mayor Kennedy opened the floor to public comment. No comments being offered.

Council Member Tate recommended that this item be discussed at the Council's retreat.

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Action:

By consensus, the Council <u>Directed</u> Staff to schedule the topic of a City-Wide Survey for the Council's upcoming retreat.

FUTURE COUNCIL-INITIATED AGENDA ITEMS

Council Member Sellers noted that the Council has tentatively scheduled a December 10, 2003 workshop relating to increasing water rates. He talked to the Finance Director and asked why a separate workshop was being requested. He said that in order to increase the water rates, the City would need to conduct a public hearing. He questioned if it would be feasible or advisable to have the workshop as part of the public hearing. It was the Finance Director's response that a workshop was proposed to help clarify issues for the Council. He said that at the last council meeting, there was some discussion on the water rates. He recommended that the workshop and the public hearing be combined, noting that the Council would be holding a public hearing in early January 2004 in order to increase rates. He stated that the Council would be holding a similar process in order to conduct a public hearing and increase the rates. As the Council recently had the discussion on water rates at its last meeting, the Council received clarification on the issues surrounding the water rate increase and provided staff with direction. He requested that the Council consider not holding a meeting on December 10 and wait until the first of the year to conduct a workshop when the Council will be holding the public hearing on the water rates any way.

Mayor Kennedy indicated that it was his understanding that the December 17 meeting has a full agenda.

Mayor Pro Tempore Chang indicated that she has a conflict in being able to attend the entire December 17 City Council meeting. She recommended that some of the December 17 agenda items be moved to December 10 so that there is a lighter meeting scheduled for December 17.

Council Member Sellers noted that the only item scheduled for December 10 was the water rates workshop.

Mayor Kennedy indicated that it was the original plan to have the City Attorney's performance evaluation held this evening, noting that the Council was not able to complete the performance evaluation this evening. He recommended that the City Attorney's performance evaluation be conducted on December 10 as well.

Council Member Tate said that it was his belief that questions relating to water rates would be answered in a workshop environment before holding a public hearing on water rates in terms of whether it should be a rate increase or alternative sources of temporary funding for what the City expects to get back from Olin Corporation.

Council Member Sellers requested that additional items be scheduled for the December 10 meeting in order to make the meeting worthwhile.

Mayor Kennedy suggested that some of the items scheduled for the December 17 be moved up to the December 10 meeting.

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ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 9:57 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY



CITY COUNCIL STAFF REPORT M

EETING	DATE:	December	17.	2003

ANNUAL FINANCIAL REPORTS FOR FISCAL YEAR 2002/03

RECOMMENDED ACTIONS:

- 1) Accept and file the Comprehensive Annual Financial Report for the Fiscal Year 2002/03
- 2) Accept and file the Financial Statements for the Redevelopment Agency for Fiscal Year 2002/03

Agenda Item #26

Prepared By:

Finance Director

Submitted By:

City Manager

EXECUTIVE SUMMARY:

Staff hereby transmits two financial documents for the fiscal year 2002/03. The first document is the Comprehensive Annual Financial Report (CAFR), covering all financial activity for the City and related entities, and the second document is the set of financial statements for the Redevelopment Agency. Both documents will be distributed separately on Monday, December 15. These annual reports are presented for City Council and Redevelopment Agency Board review. Audits of the City's and Agency's financial statements are required by State law. Copies of these documents are on file with the City Clerk and are available at the Morgan Hill Library. A Single Audit of all federal financial assistance was not required this year because the City did not meet the financial assistance threshold that would mandate this audit.

Both reports include audit opinions from independent auditor Caporicci and Larson. This the fifth year that Caporicci and Larson has been engaged as the City's independent financial auditor. The auditor indicated in their opinions that the financial statements for both the City and Agency present fairly their positions as of June 30, 2003, in conformity with generally accepted accounting principles. auditor's reports are unqualified. The auditors also concluded in their report letter included with the Agency's financial statements that the Agency complied with applicable laws, regulations, contracts, and grants.

The financial statements for both the City and Agency have been reformatted to comply with the new financial reporting model developed by Governmental Accounting Standards Board Statement 34 (GASB 34). The new financial reporting model has resulted in significant changes to the format of the City's financial statements. It is intended to improve financial reporting by providing additional information not previously available in local government financial statements. Major changes include new government-wide financial statements designed to provide readers with a broad overview in a manner similar to a private business, including a statement of net assets and a statement of activities.

FISCAL IMPACT:

The financial statements present summaries of Fiscal Year 2002/03 financial activity and present the financial condition of the City and Agency at June 30, 2003. The City and Agency still show strong reserve levels at June 30, 200. However, it is clear that the downturn in General Fund sales tax and transient and occupancy (or hotel) tax revenues, combined with the State's shifting of motor vehicle inlieu fee revenues and property tax increment revenues away from cities and counties to deal with its financial problems, and combined with increasing pressures from escalating employer retirement system and workers compensation costs, make for significant financial challenges ahead.



CITY COUNCIL STAFF REPORT MEETING DATE: December 17, 2003

SUBDIVISION APPLICATION SD 03-01: McLaughlin-South County Housing (Jones)

RECOMMENDED ACTION(S): Take no action, thereby concurring with the Planning Commission's decision regarding approval of the subdivision map.

Prepared By: Senior Planner Approved By: Director of Community Development Submitted By: City Manager

Agenda Item # 27

EXECUTIVE SUMMARY:

The applicant is requesting approval of a 5 lot subdivision of a .67-acre portion of a 2.17 acre site located on the east side of the current terminus of McLaughlin Ave., north of Central Ave.

The project received 5 micro allocations as part of the 2000 RDCS micro competition. The tentative map approval requested at this time consists of lots 3-7 within the northwest corner of the proposed RPD. Lots 8-16 on the RPD plan do not have building allocations and are not part the of the current subdivision request.

Lots 1 & 2 will be two Measure P exempt single family detached homes that will be created through lot line adjustments. The applicant will be removing and replacing the existing home on the corner of McLaughlin Ave. and Central Ave. currently on APN 726-24-024. Per the RPD, lot 24 would be adjusted to 7080 sq. ft. representing lot 1 on the precise development plan. Assessor Parcel Number 726-24-023 would be adjusted to 7030 sq. ft. representing lot 2 on the precise development plan and APN 726-24-22 would remain as a separate lot of record. As a condition of the subdivision map approval, it is recommended that APN 726-24-022 be labeled as a remainder parcel as part of the tentative map with a note and deed restriction precluding any further development outside of the RDCS. The size of APN 726-24-022 will increase to approximately 1.18 acres as a result of the lot line adjustments. A copy of the assessor's map has been attached for the Council's reference.

Currently portions of McLaughlin Ave. are owned by the City and other portions are private with public access easements (see attached parcel map). The 5 lot micro project will complete McLaughlin Ave. up to the eastern boundary of lot 7. The project also committed to the installation of sidewalk along the west side of McLaughlin which is not shown on the current plans but is included as a condition of the subdivision approval and as a commitment within the project's development agreement. The project's precise development plan and development agreement are within this same agenda. The Planning Commission Staff report and minutes are included within this same agenda as part of the RPD staff report.

This application was reviewed by the Planning Commission at their December 2 meeting, at which time the Commission voted 5-0-2 (Commissioners Engles & Weston absent), approving the request. The Planning Commission resolution, conditions of approval, and subdivision map are attached.

FISCAL IMPACT: No budget adjustment required

RESOLUTION NO. 03-97

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL APPROVING A 5-LOT MULTI-FAMILY LOW RESIDENTIAL SUBDIVISION ON A .67-ACRE SITE, LOCATED ON THE EAST SIDE OF MCLAUGHLIN AVENUE, NORTH OF CENTRAL AVE. (APNS 726-24-006 & 007)

WHEREAS, such request was considered by the Planning Commission at their regular meeting of August 12, 2003 and a special meeting held December 2, 2003 at which time the Planning Commission approved subdivision application SD-03-01: McLaughlin-Jones; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

- **SECTION 1.** The approved project is consistent with the Zoning Ordinance and the General Plan.
- **SECTION 2.** An environmental initial study has been prepared for this project, and has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. A mitigated Negative Declaration has been filed
- **SECTION 3.** The proposed subdivision will not result in a violation of the requirements established by the Regional Water Quality Control Board.
- **SECTION 4.** The approved project shall be subject to the conditions as identified in the set of standard conditions attached hereto, as exhibit "A", and by this reference incorporated herein.

PASSED AND ADOPTED THIS 2nd DAY OF DECEMBER, 2003, AT A SPECIAL MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES:	COMMISSIONERS:	Meuller, , Acevedo, Benich, Escobar, Lyle	
NOES:	COMMISSIONERS:	None	
ABSTAIN:	COMMISSIONERS:	None	
ABSENT:	COMMISSIONERS:	Weston, Engles	
ATTEST:		APPROVED:	
FRANCES O. SMITH Deputy City Clerk		JOSEPH. H. MUELLER Chair	
	\mathbf{A}°	FFIDAVIT	
I, conditions sp	, applic ecified in this resolution.	eant, hereby agree to accept and abide by the term	ns and
		, Appl	icant
		Date	

OTHER CONDITIONS:

1. As part of the final map approval, APN 726-24-022 shall be labeled as a remainder parcel and contain a note and deed restriction precluding any further development without securing building allotments through Residential Development Control System. (PLNG)
2. Prior to the recordation of the final map, site, architectural and landscape plans for the five lot micro development shall be reviewed and approved by the Architectural and Site Review Board. (PLNG)
3. Project shall comply with all Measure P commitments. (PWKs)
4. Provide on-site detention pond to detain increased run-off due to site development. (PWKs)
5. Provide required right of way dedication on McLaughlin Ave. (PWKs)
6. Provide full street improvements along McLaughlin Ave. frontage. (PWKs)
7. Underground all overhead utilities within the project boundaries. (PWKs)
8. Obtain encroachment permit prior to doing any work in the City's right of way. (PWKs)
9. The project shall install sidewalk along the west side of McLaughlin Ave. to connect to the existing sidewalk. The extent of the sidewalk improvements shall be to the review and approval of the Director of Public Works.
10. A 12" water main shall be installed in Central Ave. from Monterey Rd. east to the railroad.